



Mick Antoniw MS
Chair
Legislation, Justice and Constitution Committee
Senedd

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9 November 2020

Dear Mick

Thank you for your letter following the Legislation, Justice and Consultation Committee's consideration of regulations amending The Health Protection (Coronavirus Restrictions) (No.2) (Wales) Regulations 2020 and the committee's feedback.

We have worked very hard to make easy-to-access and relevant frequently asked questions and guidance available on our website to help the public understand the coronavirus regulations, which are in effect at both a national and a local level.

The FAQs for the main coronavirus regulations are extensive and have been structured in such a way to include a number of scenarios, as you suggest. While it is not possible for these to cover every possible scenario, some examples include: I live alone in an area with local restrictions, can I meet up with another household? I have a [restaurant] booking for more than six people – can it still go ahead? My hairdresser is open, can they now provide other services such as doing my nails?

Similar FAQs and guidance also cover other topics and scenarios, including when and how to self-isolate; testing; support for business; volunteering; education and schools and the wearing of face coverings.

We keep all our FAQs under regular review to make sure they are relevant to the public and these are updated in line with feedback from the public and from other sources, such as common questions from Members of the Senedd, to make sure we are providing the most up to date advice to the people.

The Committee also queried the use of the concept of a "reasonable excuse" in regulations. The concept of a 'reasonable excuse' is a well-recognised legal concept that is used in various contexts across the statute book, including tax and finance legislation (see sections 114, 115, 126 and 149 of the Tax Collection and Management (Wales) Act 2016); asylum and immigration legislation (see section 2 of the Asylum and Immigration (Treatment of Claimants etc.) Act 2004) and housing legislation (see section 11(2) of the Renting Homes (Fees etc.) (Wales) Act 2019).

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

In relation to Covid-19 related legislation specifically, all four UK nations have imposed key restrictions on citizens and have made it an offence for a person to contravene them unless a 'reasonable excuse' exists. Examples of such restrictions are found in Regulations 5 and 6 of The Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020; several Regulations in The Health Protection (Coronavirus) (Restrictions and Requirements) (Additional Temporary Measures) (Scotland) Regulations 2020; and Regulations 5 and 6 of The Health Protection (Coronavirus, Restrictions) (No. 2) Regulations (Northern Ireland) 2020.

Exhaustive lists of circumstances in which general prohibitions do not apply are not possible for a set of rules that apply to so many different circumstances and where there are so many individual variables. What will be reasonable in any particular set of circumstances will always be a judgement that an individual or business needs to make for themselves in all the circumstances of their case. An action can be reasonable in one circumstance and not in another.

We do recognise that this causes challenges for people across Wales in determining what is allowable, which is why we agree with the Committee that providing examples is useful, and we strive to do so where possible. An example of where we have done this is in the guidance on the requirement to wear face coverings in public places. In this guidance, examples of things we consider reasonable excuses for not wearing a face covering are provided throughout. This includes excuses which are listed in the non-exhaustive list in the regulations, but also others which are not such as if:

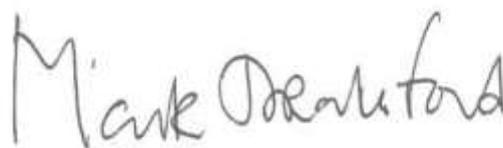
- You are asked to do so by someone who will otherwise find it difficult to communicate with you;
- You are asked to do so in a bank, building society or post office for identification;
- You are asked to do so by shop staff or relevant employees for identification, for assessing health recommendations (e.g. by a pharmacist), or for age identification purposes including when buying age restricted products such as alcohol

All the FAQs and guidance are available on our main coronavirus pages at www.gov.wales/coronavirus and <https://llyw.cymru/coronafeirws>. This information is supplemented by the work we do through our social media channels to raise awareness and reinforce the core messages about the coronavirus rules and the televised Welsh Government press briefings, which are currently held three times a week.

Ultimately, however, while we agree people should have as much guidance as possible on what is legally permissible, we do consistently ask people to ask themselves not what they are permitted to do, but what is sensible, given the overriding objective to minimise the spread of coronavirus.

Thank you very much for the committee's feedback and for your ongoing scrutiny of the Welsh Government's coronavirus regulations.

Best Wishes

A handwritten signature in black ink that reads "Mark Drakeford". The signature is written in a cursive, slightly slanted style.

MARK DRAKEFORD

