

Delegated Officer Report

Decision Maker:	Rebekah Sutcliffe, Strategic Director of Communities & Reform
Date of Decision:	25 November 2020
Subject:	Spicy Kitchen and, Chicken Express Pizza and Milkshake Bar ,202a Milnrow Road Shaw OL2 8BE
Report Author:	Samantha Cox - Head of Public Protection
Ward (s):	Shaw

Reason for the decision:	Closure of premises due to a complete lack of controls being implemented in relation to the COVID-19 restrictions.
Summary:	<p>Oldham Council Environmental Health staff visited the Spicy Kitchen following a notification of a positive case within a member of staff.</p> <p>When officers arrived they witnessed staff not socially distancing and not wearing face coverings.</p> <p>Officers questioned staff about any positive cases and were told that a member of staff had tested positive and they had worked with him within the 48 hour period before his test result.</p> <p>Officers also established that there is a second business next door, Chicken Express Pizza and Milkshake Bar, owned by the same person, which has a separate customer entrance, but shares a rear entrance, storage and equipment washing and toilet facilities. The staff in the two businesses are in close contact.</p> <p>The owner of the business arrived and at first try to deny that there had been a positive case. He then admitted it and said not all staff had worked with him.</p> <p>After speaking to all staff members it was established that they had all worked with him and were therefore all contacts and all were told they must self isolate.</p> <p>There are no covid control measures in place and the business owner has allowed contacts of a case to continue to work.</p>

<p>What are the alternative option(s) to be considered? Please give the reason(s) for recommendation(s):</p>	<p>It is recommended that the premises are closed under Regulation 4(1) of the Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020 (“the Regulations”) with immediate effect on the 25 November 2020 to 10:00 hours on Friday 5 December 2020 with a review of this direction at least once every seven days.</p> <p>This will ensure that staff complete their self isolation period and allow the business owner time to ensure he has adequate covid control measures and procedures in place.</p>
<p>Recommendation(s):</p>	<p>Direction to close premises</p>
<p>Public Health Implications:</p>	<p>See Appendix I</p>
<p>Legal Comments:</p>	<p>The Council may only give a direction if it considers that:</p> <ul style="list-style-type: none"> a) Giving the direction responds to a serious and imminent threat to public health b) The 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 Council’s area; and c) The prohibitions, requirements or restrictions imposed by the direction are a proportionate means of achieving that purpose. <p>If on a review of a direction the Council considers that one or more of the conditions specified above is no longer met in relation to the direction, the Council must by notice revoke the direction without replacement or revoke the direction and replace it with a further direction in relation to which the Council considers that the conditions specified above are met.</p> <p>In determining whether to give a direction or revoke a direction, the Council must have regard to any advice given to it by the Director of Public Health. The Council must also notify the Secretary of State as soon as reasonably practicable after the direction is given. After giving a direction, at least once every 7 days the Council must review whether conditions a) – c) above continue to be met.</p> <p>A direction under Regulation 4(1) may only be given for the purposes of closing the premises, restricting entry to the premises or securing restrictions in relation to the location of persons in the premises.</p>

	A person served with a direction may appeal to the magistrates' court and make representations to the Secretary of State about the direction. Failure to comply with a direction is a criminal offence. (A Evans)
Equality and Diversity Impact Assessment <i>attached or not required because (please give reason)</i>	

Has the relevant Legal Officer confirmed that the recommendations within this report are lawful and comply with the Council's Constitution?	Yes
Are any of the recommendations within this report contrary to the Policy Framework of the Council?	No

List of Background Papers under Section 100D of the Local Government Act 1972:

Title	Available from
None	

Report Author Sign-off: Samantha Cox	
Date: 25 November 2020	

Rebekah Sutcliffe, Strategic Director of Communities & Reform

Signed:



25.11.2020

_____ Date: _____

Appendix 1

1. This direction responds to a serious and imminent threat to public health

Oldham has seen very high numbers of COVID-19 cases throughout the pandemic and now has one of the highest rates in the country. Local data shows us that transmission is happening in our communities. Transmission between households is a key driver for our higher rates. In addition, our local data shows us that the rate of new cases is higher in working age adults, and young people rather than the elderly.

In order to reduce transmission a national lockdown is in place. The impact of these restrictions on our rising rates is being threatened by businesses not following the guidelines. In addition, there is the possibility that if premises are not managed in compliance with the current legislation that the numbers of contacts for a case would be extremely high.

The high rates of cases in Oldham, and the high rates in working age adults and young people, combined with the risk of spread between households means that hospitality settings have the potential to be a particularly potent source of transmission if the regulations are not followed. Premises that do not follow the regulations are a clear threat to the health of the public.

The visit by Environmental Health revealed contacts of a positive case working within the business, that had inadequate cleaning procedures, hand washing and other covid control measures to prevent the spread of the virus.

2. 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

Oldham Council Environmental Health staff visited the Spicy Kitchen following a notification of a positive case within a member of staff.

When officers arrived they witnessed staff not socially distancing and not wearing face coverings.

Officers questioned staff about any positive cases and were told that a member of staff had tested positive and they had worked with him within the 48 hour period before his test result.

The owner of the business arrived and at first try to deny that there had been a positive case. He then admitted it and said not all staff had worked with him.

After speaking to all staff members it was established that they had all worked with him and were therefore all contacts and all were told they must self isolate.

There are no procedures in place to ensure covid control measures are being followed and the business owner has allowed contacts of a case to continue to work.

There were no cleaning products in the business and the hand washing facilities were not

adequate.

There is a second business adjoining the Spicy Kitchen, Chicken Express, that has a separate customer entrance but shares facilities with the Spicy Kitchen such as the equipment sink, storage area, and rear entrance to the businesses. The staff from both businesses come into close contact with each other and are therefore all close contacts.

The hot water tap to the wash hand basin in Chicken Express was difficult to turn on and the member of staff in the business at the time said she hadn't used it that day, demonstrating a lack of personal hygiene and non implementation of covid controls.

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

This premises poses a threat to the public health. The staff within the business are all contacts of a positive case. There are no controls within the business to prevent the spread of the virus and should the business owner get replacement staff to cover the isolation period, there is nothing to protect the spread of the infection amongst these staff.