



Cyngor Bwrdeistref Sirol  
**MERTHYR TUDFUL**  
**MERTHYR TYDFIL**  
County Borough Council

## CLOSURE NOTICE

### THE HEALTH PROTECTION (CORONAVIRUS RESTRICTIONS) (No.4) (WALES) REGULATIONS 2020

This Notice is served under paragraph 2 of Schedule 3 of above Regulations. Regulation 21(2) imposes certain obligations to minimise the risks to public health arising from exposure to coronavirus. Failure to comply with the requirements of the Regulations, without reasonable excuse, is a criminal offence

<b>Business/Premises Name:</b>	<b>WYNDHAM ARMS</b>
<b>Business/Premises Address:</b>	<b>55 GLEBELAND STREET MERTHYR TYDFIL CF47 8AT</b>
<b>Name of Person Responsible:</b>	<b>KEVIN JONES</b>
<b>Address of Person Responsible:</b>	<b>WYNDHAM ARMS, 55 GLEBELAND STREET MERTHYR TYDFIL, CF47 8AT</b>
<b>Type of Premises</b>	<b>PUBLIC HOUSE</b>

I, **ANEURIN HUGHES**, as a relevant person and enforcement officer designated by Merthyr Tydfil County Borough Council, have reasonable grounds for suspecting that you, as the person responsible, for the regulated premises stated above,

- ~~• have failed to comply with a Premises Improvement Notice (reference no \_\_\_\_\_) issued to you on the day of \_\_\_\_\_ 2020 detailing reasonable measures to be taken as set out in **Part A** below,  
or ~~(Delete where applicable)~~~~
- have failed to take reasonable measures, which are set out in **Part A** below, to minimise risk of exposure to coronavirus or the spread of coronavirus by those who have been at the premises.

And in order to secure compliance, it is necessary and proportionate to issue this Closure Notice to prevent continued contravention of the requirements.

#### **Part A. Contravention of the requirements imposed by Regulation 21(2)**

You have failed to take the following reasonable measure(s) to ensure *(delete the following as appropriate)*

21(2)(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)

~~21(2)(a)(ii) where persons are required to wait to enter the premises, that a distance of 2 metres is maintained between them (except between two members of the same household, or a carer and the person assisted by the carer)~~

and ~~or~~

2(b) You have failed to take the following other reasonable measures. (delete as appropriate)

\* limiting close face to face interaction \* maintaining hygiene \* minimising the risk of exposure to coronavirus at the premises \* minimising the spread of coronavirus by those who have been at the premises

by failing to

~~2(b)(i) change the layout of premises including the location of furniture and workstations~~

2(b)(ii) control the use of entrances, passageways, stairs and lifts

~~2(b)(iii) control the use of shared facilities such as toilets and kitchens~~

2(b)(iv) otherwise control the use of, or access to, any other part of the premises

2(b)(v) install barriers or screens

2(b)(vi) provide or require use of personal protective equipment

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

~~and / or under Regulation 21(3)~~

~~(a) by ceasing to carry out certain activities~~

~~(b) by failing to close part of the premises~~

~~(d) by failing to collect contact information from each person at the premises and retaining it for 21 days for the purpose of providing it to the Welsh Ministers or a contact tracer upon either's request.~~

**and / or under Regulation 21(4)**

Where the premises is authorised for the sale or supply of alcohol for consumption on the premises, failed to take the following reasonable measures under Regulation 21(5)

(a) ensuring there is a person controlling entry to the premises and allocating a limited time period during which customers may stay in the premises

(b) ensuring customers are seated in the premises anywhere other than at a bar,

(i) when ordering food or drink

(ii) when being served with food or drink, and

(iii) when consuming food or drink

*[if appropriate and necessary specify the exact non-compliance]*

Enforcement officers witnessed persons within the premises congregating at the bar;  
Enforcement officers witnessed an individual being served at the bar. When the person serving the individual was challenged she responded by saying she had asked him to sit down a couple of times but he refused so she served him;  
The bar area was not cleansed and sanitised after customers had been served there;  
Customers were using the bar as their table;  
No effort was made by customers to adhere to social distancing requirements and these requirements were not enforced by the staff at the premises;  
Customers were vocally loud and shouting and very boisterous. No evidence of staff controlling the behaviour of customers and getting them to reduce their own volume;  
Cleaning regime – During the inspection the main entrance door and surrounding area was not cleaned once and it was in constant use with customers in and out either new customers to the premises or existing customers vacating for a cigarette;  
Staff training / awareness – All staff should have viewed the Risk Assessment prior to commencing work. Any training the staff should have had could not be confirmed as the Risk Assessment was locked away in an office;  
Outdoor areas / smoking areas / queueing at the premises – no control of these areas at all. As officers were entering the premises there was a number of customers outside smoking with no social distancing in place and no monitoring. As officers approached the entrance door customers were seen to be leaving the premises without any face coverings.

The enforcement officer considers that closure of the premises is necessary and proportionate for the purpose of minimising the risk of exposure to coronavirus (*set out reasons*)

The Officers who attended the premises could not believe the lack of control, the low staffing levels and the complete lack of awareness of both staff and customers at the premises, especially as the premises were inspected on the 26<sup>th</sup> November 2020, when officers advised the responsible persons that further effort was required to achieve full compliance.  
Customers were allowed to behave as if it were normal. They were free to stand at the bar, order and pay for their drinks at the bar, shouting at each other across the room and generally behave as if there were no restrictions in place.  
The premises allowed this behaviour and therefore they do not have sufficient policies and procedures in place to control this regulated premises in line with the Welsh Government's Coronavirus Regulations and its prescribed Guidance.

#### **Part B. Action required by you**

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

**Failure to comply with The Health Protection (Coronavirus Restriction) (No 4) (Wales) Regulations 2020, without reasonable excuse, is an offence under Regulation 35 and punishable on summary conviction by a fine.**

In order to secure compliance Merthyr Tydfil County Borough Council hereby directs you to take the following actions: -

- Customers must be seated in the premises anywhere other than at a bar, when ordering food or drink, when being served food or drink and when consuming food or drink;

- Where only part of the premises is available for the consumption of food/drink, the requirement to wear a face covering will still apply in other parts of the premises;
- If customer toilets are open ensure they are cleaned regularly, including manual multi-person touch points such as door handles, wash hand basins, flushes, taps etc;
- Introducing frequent deep cleaning, with attention to multi-contact points – for example, between shifts, staff change overs and/or during breaks;
- Designating a named member or members of staff during all opening hours to monitor Covid-19 hygiene and enforcement of social distancing/safety protocols – acting as ‘Covid Secure Monitors’. This is an important role in ensuring a Covid secure environment and you should ensure that priority is given to this role and that a responsible member of staff is in place for each shift;
- The Covid-19 risk assessment needs to be enhanced and produced;
- Time slots must be allocated to all customers at the premises and this must be detailed within the risk assessment;
- Pre-booking procedures are to be implemented and detailed within the risk assessment;
- Walk-ups are to be kept to an absolute minimum as prescribed by the Welsh Government Guidance;
- PPE for members of staff carrying out cleaning duties at the premises, when they are open or closed, must be provided and used by all responsible staff.
- All staff must participate in a training event and sign an acknowledgement that they have each received this training. Specific training must be given in respect of staff obligations concerning: -
  - Gatherings of people;
  - Social Distancing;
  - Live and Recorded Music (which includes Karaoke);
  - Dancing;
  - Face coverings;
  - Table Service;
  - Designation of a Covid Secure Monitor for all times the premises are open.

Other measures that achieve equal effect but are not necessarily specified in the guidance may be implemented.

Further guidance is available at <https://gov.wales/coronavirus-legislation-and-guidance-law> and <https://gov.wales/taking-all-reasonable-measures-minimise-risk-exposure-coronavirus-workplaces-and-premises-open>

**This Closure Notice is considered reasonable and proportionate due to Failure to comply with The Health Protection (Coronavirus Restriction) (No 4)(Wales) Regulations 2020**

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 21(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 C. 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 3 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 by the Regulations.

### **Part D. 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.

The Local Authority may, at their discretion, offer you the opportunity to pay a Fixed Penalty Notice (FPN) as an alternative to prosecuting you for non-compliance. If you fail to pay an FPN or if the Authority chooses to prosecute you instead of issuing you an FPN on summary conviction a Magistrates' Court can impose a fine on you.

If further non-compliances are found in future you may be subject to further enforcement action to secure compliance.

### **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, 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 subparagraph (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.

**This Notice remains in force until either a notice of termination is issued or any appeal you lodge is determined.**

<b>Enforcement Officer Name:</b>	ANEURIIN HUGHES		
<b>Signed:</b>		<b>Served: Date Time</b>	<b>8.12.2020 1200hrs</b>
<b>Enforcement Officer Contact Details:</b>	Merthyr Tydfil County Borough Council, Civic Centre, Castle Street, Merthyr Tydfil CF47 8AN Tel No: 01685 725000 Email: Aneurin.Hughes@merthyr.gov.uk		
<p><b>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.</b></p> <p><b>This Notice will remain in force during the time limited period until either a Notice of Termination is issued or any appeal you lodge is heard by the Magistrates' Court (whichever is sooner).</b></p> <p><b>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.</b></p>			

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



GIG  
CYMRU  
NHS  
WALES

Iechyd Cyhoeddus  
Cymru  
Public Health  
Wales



## **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**