

Rt Hon Mark Drakeford MS
First Minister of Wales

4 September 2020

Dear Mark

Health Protection (Coronavirus Restrictions) (No. 2) (Wales) Regulations 2020 (“the Principal Regulations”)
The Health Protection (Coronavirus Restrictions) (No. 2) (Wales) (Amendment) (No. 5) Regulations 2020 (“the No.2 No.5 Regulations”)

We considered the No.2 No.5 Regulations at our meeting on 24 August 2020 and laid our report the same day. Since preparing our report, we have become aware of the Welsh Government’s guidance *Keeping records of staff, customers, and visitors: test, trace, protect*, which raises the following concerns.

The guidance says that it is a “legal requirement” for the following businesses to collect and retain customer contact information:

- Hospitality, including pubs, bars, restaurants and cafes.
- Cinemas.
- Close contact services including hairdressers, barbers, beauticians, tattooists, sports and massage therapists.
- Swimming pools, indoor fitness studios, gyms, spas or other indoor leisure centres or facilities.

As you are aware, the Principal Regulations in Wales do not expressly say that these businesses are required to collect and retain customer information. Rather, these businesses (like all other businesses, workplaces, open premises etc) must take reasonable measures for the purpose of minimising the risk of exposure to coronavirus at the premises or for the purpose of minimising the spread of coronavirus by those who have been at the premises. While it may be reasonable in the large majority of cases for the businesses listed above to collect and retain customer information, we are not convinced that this amounts to a blanket legal obligation on all such businesses. Each case must be decided on its facts to determine what is reasonable, in accordance with the regulations.



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Also, the guidance discusses the collection and retention of information in the context of the purpose of reducing the risk of any person who has been on someone's premises spreading the virus. However, regulation 12(2A) of the Principal Regulations says that customer information can be collected and retained for the purpose of minimising the risk of exposure to coronavirus at the premises.

In light of the above, we would be grateful for confirmation as to whether the Principal Regulations or the guidance requires amendment.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Mick Antoniw', with a horizontal line underneath the name.

Mick Antoniw MS
Chair

Croesewir gohebiaeth yn Gymraeg neu Saesneg
We welcome correspondence in Welsh or English

