

PREMISES IMPROVEMENT NOTICE
REFERENCE NUMBER JWD/200121/01/MWV



**THE HEALTH PROTECTION (CORONAVIRUS RESTRICTIONS) (No.5) (WALES)
REGULATIONS 2020
Regulation 26 & Schedule 8**

Business/Premises Name:	B&M Retail Limited
Business/Premises Address:	4-5 Commercial Street, Aberdare, CF44 7RW
Name of Person Responsible:	James Davies
Address of Person Responsible:	4-5 Commercial Street, Aberdare, CF44 7RW
Type of Premise/Business/Service:	Retail

I, Jamie Duncan, as a relevant person and enforcement officer designated by Rhondda Cynon Taf County Borough Council, consider that you, as the person responsible, are contravening a requirement imposed by these Regulations and it is necessary and proportionate to give you this Premises Improvement Notice for the purpose of preventing you from continuing to contravene the requirement(s) of the Regulations.

I am of the opinion that you, as the person responsible, for the premises detailed above, which is listed in Regulation 15 and Schedule 7 are failing to comply with the following relevant provision(s):

Regulation 16(1) of The Health Protection (Coronavirus Restrictions) (No.5) (Wales) Regulations 2020 for the following reasons:

Failure to comply with the obligations imposed on you by Regulation 16(1) 'Reasonable measures to minimise risk of exposure to coronavirus'.

Specifically, on 20/01/2021 at 11:45 it was observed that:

Inadequate measures have been taken to control customer access to restricted goods within the store.

Paragraph 57 (a) and (b) of Part 4 of Schedule 4, only permit the sale of goods listed in paragraphs 55 and 56 in supermarkets, the sale of other goods should only take place in accordance with Paragraph 57 (c), namely, where it is not reasonably practicable to separate or demarcate those areas of shop that ordinarily displays such goods from those areas that display the goods, and on an exceptional basis where the goods are required in an emergency or on compassionate grounds.

This Premises Improvement Notice is being given to you for the purpose of protecting against the risks to public health arising from coronavirus and the serious and imminent threat to public health posed by the incidence and spread of severe acute respiratory syndrome coronavirus 2 in Wales.

The above point(s) fail to ensure that reasonable measures were in place on the premises, contrary to Regulation 16(2)(a) and/or (b).

Failure to comply with The Health Protection (Coronavirus Restrictions) (No.5) (Wales) Regulations 2020, without reasonable excuse, is an offence under Regulation 42 and punishable on summary conviction by a fine.

In order to secure compliance Rhondda Cynon Taf County Borough Council hereby directs you to take the following actions:

Not carrying out certain activities, such as the exposing for sale goods other than those permitted in Paragraphs 55 and 56 of Part 4 of Schedule 4.

Closing or marking off a part of the premises to prevent customer access to such goods.

Where there are distinct parts of a store selling (for example) electrical goods, clothes, toys, games, or products for the garden, these should be closed to the public – and these products should not be sold.

Where such products do not have their own sections of the shop but are in distinct aisles, these should also be closed off or cordoned off if reasonably practicable.

Please ensure where possible restricted goods are removed from sale or adequately blocked off with the use of sheeting, tape, or barriers.

The responsibility for closing premises and not selling certain products cannot be delegated to customers and must be managed by the shop. Shops cannot divest themselves of this responsibility, and for the avoidance of doubt making all of their products available and merely asking customers (for example through signage or announcements) not to purchase anything that the customer thinks they have good reason to buy does not meet the legal obligation.

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> <https://gov.wales/taking-all-reasonable-measures-minimise-risk-exposure-coronavirus-workplaces-and-premises-open> and <https://gov.wales/business-closures-alert-level-4#section-58497>

Time Limit for Measures to be taken

The measures identified within this Premises Improvement Notice must be taken within 48 hours, commencing with the time that the notice is issued.

Enforcement Officer Name:

Jamie Duncan

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Signed:		Time & Date:	20/01/2021 11:45
Enforcement Officer Contact Details:	Email: Jamie.w.duncan@rctcbc.gov.uk Telephone: 01443 425001		

Appeals

The appeals process is set out in Schedule 8 Paragraph 5.

A person to whom a premises improvement notice is issued may appeal to a Magistrates' court against the notice.

An appeal must be made:

- a) By way of complaint for an order, and in accordance with the Magistrates' Courts Act 1980(37), and
- b) Within 7 days after the day the notice is issued

A magistrates' court may allow an appeal to be made after the expiry of the period mentioned in b) above if satisfied that there is a good reason for the failure to apply before the expiry of that period (and for any delay in applying for permission to appeal out of time).

Notes

The Health Protection (Coronavirus Restrictions) (No.5) (Wales) Regulations 2020 are made under The Public Health (Control of Diseases) Act 1984 (*as amended*).

"Coronavirus" means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).

A "person responsible for carrying on a business" includes the owner, proprietor and manager of that business.

These Regulations expire on the 31st March 2021. All requirements and restrictions will be subject to review by the Welsh Ministers every 21 days.

A Premises Improvement Notice may be issued to a person responsible for premises referred to in Regulation 15(1), if the officer considers that the person is not complying with the obligations imposed on the person by Regulation 16(1) and the measures specified are necessary and proportionate in order to ensure that the person complied with those obligations.

This Premises Improvement Notice is being issued under Regulation 26 and Schedule 8 of The Health Protection (Coronavirus Restrictions) (No.5) (Wales) Regulations 2020

Schedule 8 of the Regulations places a requirement on the Local Authority to publicise all Premises Improvement Notices.

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THESE MEASURES WILL REMAIN IN FORCE UNTIL THE RESTRICTION HAS BEEN LIFTED BY THE WELSH MINISTERS