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Rt Hon Yvette Cooper MP
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Sir Bob Neill MP
Chair
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House of Commons
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3rd June 2020

Dear Yvette and Sir Bob,

STATUTORY INSTRUMENT – PROSECUTION OF OFFENCES ACT 1985

I am writing to advise you that the Prosecution of Offences Act 1985 (Specified Proceedings) (Amendment) Order 2020 was laid before Parliament yesterday, 2 June, and comes into force today. This instrument allows for the efficient prosecution of offences contrary to the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 and the Health Protection (Coronavirus, Restrictions) (Wales) Regulations 2020 (“the Regulations”). It preserves defendants’ right to a fair trial and it has the support of the National Police Chiefs’ Council, Crown Prosecution Service (CPS) and Her Majesty’s Courts and Tribunals Service. I wanted to take this opportunity to explain what this instrument provides for legally and its rationale.

As you know, the Regulations put in place restrictions based on clinical advice which are necessary to protect public health. In summary, the process for dealing with cases involving people who plead guilty to breaches of the regulations will be streamlined. Currently, the CPS has a role in all of these prosecutions even if the defendant pleads guilty and does not want a public hearing. The change means this will no longer be the case and the CPS will only have a role where the defendant pleads not guilty or does not consent to the procedure.

There are a number of checks and balances built into this process. The police will continue their checks and controls on charging, and the central administration of the service of notices and evidence means that there is National Police Chiefs’ Council oversight and accountability for this process going forward. Moreover, these cases will receive scrutiny at court by the magistrate and legal adviser. Further, it

should be noted that any defendant who was unaware of proceedings may re-open them by swearing a declaration to that effect, and all defendants have an automatic right of appeal to the Crown Court. These proceedings are only brought when a person, having had sufficient opportunity to do so, fails to pay a fixed penalty notice. The CPS continues to be responsible for prosecuting any individual who pleads not guilty, or does not consent to the procedure. Any individual who wishes to plead not guilty can do so in the normal way before the court.

The Crown Prosecution Service, National Police Chiefs Council and Her Majesty's Courts and Tribunals Service have all been consulted and support this measure. Instituting proceedings in this manner is consistent with the processes the police have in place; it focuses CPS resources on contested cases; it requires fewer court staff, judiciary and use of the court estate.

The central police administrative authority which oversees fixed penalty notices and their non-payment began to issue notices from 24 April onwards so that those who did not pay become liable for prosecution from 22 May onwards. Accordingly I brought into force this instrument promptly, in consultation with the NPCC, CPS and HMCTS, to avoid a backlog and to ensure the swift and summary disposal of these cases where appropriate.

*Yours sincerely,
Suella Braverman*

**RT HON SUELLA BRAVERMAN QC MP
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