

Fact Sheet 2

**FIXED PENALTY NOTICE DURING THE PANDEMIC**

**What is a fixed penalty notice?**

A fixed penalty notice (FPN) is an on-the-spot fine which the police have the power to issue for a minor offence.

Fixed penalty notices were initially introduced under the Anti-social Behaviour Scotland Act 2004 as a means of dealing with various minor public order offences (e.g. breach of the peace, malicious mischief).

**Fixed penalty notices during the pandemic**

In 2020, the UK and Scottish Governments introduced separate pieces of legislation in order to

reduce the spread of coronavirus (COVID-19) in our communities.

Each piece of legislation contains separate powers for Scottish police officers which provides them with the powers to help ensure that the restrictions in place across the country are being followed.

The fundamental principles of both the UK and the Scottish legislation are to reduce transmission and keep people safe.

- [Restrictions imposed by The Health Protection \(Coronavirus\) \(Restrictions\) \(Scotland\) Regulations 2020](#)
- [Coronavirus Act 2020](#)

Purpose

The Strategic Police Plan commits to the provision of policing for a safe, protected and resilient Scotland. This requires designing and maintaining services which meet rising and evolving demands in a constantly changing environment. To meet these demands now and in the future Scotland's police service must adapt and proportionately adopt new ways of working, policies and technologies which will enable them to protect the safety and wellbeing of our communities (as outlined in the Policing Principles - Section 32 of Police and Fire Reform (Scotland) Act 2012).

This series of public focused and user-friendly factsheets have been developed to provide an overview of the benefits of new policing approaches and upcoming developments within policing, the policies that will govern them, and the ethical, privacy and human rights implications. For further reading, Police Scotland and the Scottish Police Authority have also published a range of associated material that will be signposted at the end of this document.

The vast majority of the public have and will continue to comply with the current restrictions.

The policing style adopted is central to maintaining Police Scotland's commitment to policing by consent.

Officers should engage, explain, encourage and enforce.

This could be by asking individuals, groups or businesses whether they have heard about the new regulations and restrictions.

Officers will stress the risks to public health and the NHS. If police efforts to engage with people, explain the regulations and legislation and encourage people to follow the rules fail then enforcement action will be taken.

The police can:

- tell people to disperse
- tell parents to stop their children breaking the rules
- issue a fixed penalty notice

In Scotland people aged 18 or over can be issued with a fixed penalty notice, which are as follows:

- £60 for the first offence, lowered to £30 if paid within 28 days
- £120 for the second offence, then doubling for each further offence up to a maximum of £960

If someone continues to ignore the instructions, the police can arrest them if they think it is proportionate and necessary.

## Police Scotland use of FPNs during the pandemic

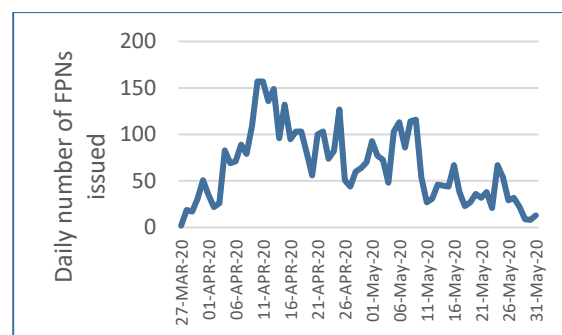
Public opinion surveys conducted during the course of the pandemic found that members of the public in Scotland were overwhelmingly compliant with the new Regulations, especially during the initial lockdown period.

To deal with those who failed to comply with the Regulations, Police Scotland followed the '4Es' approach (i.e. Engagement, Explanation, Encouragement and Enforcement) with the fourth E focusing mainly on those who committed flagrant or repeated breaches.

During the first lockdown period (23 March 2020), a total of 44,296 interventions with the public were recorded by police officers, of which only 7.2% involved issuing an FPN.

Police use of FPNs rose sharply during the first three weeks of the pandemic and peaked in early April, but then declined gradually over time as shown in the chart below.

Spikes in police use of FPNs tended to coincide with good weather, public holidays and weekends, and announcements relating to the easing of restrictions.

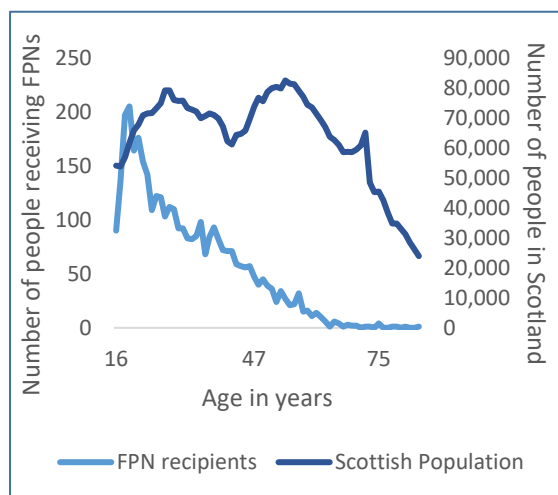


There were 4,327 FPN tickets issued to 3,786 individuals, which represents less than 0.1% of the Scottish population.

According to a National Police Chiefs Council report, six fines were issued for every 10,000 people in Scotland and Wales during this period compared to three per 10,000 in England. However, the value of fines was three times higher in England which may have increased the threshold of officer decision making.

## Socio-demographic profile of FPN recipients

Younger people were far more likely to receive FPNs than older people. This fits with research suggesting that young people were less likely to comply with the Regulations.



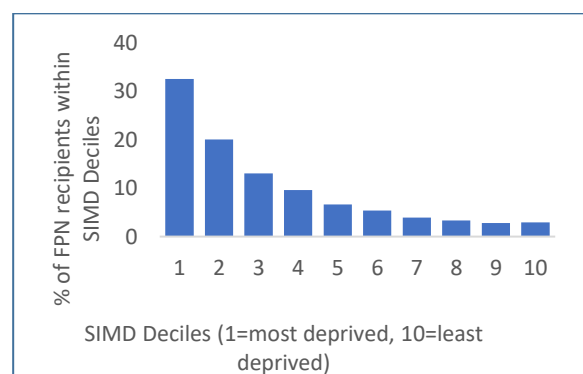
Men were over three times more likely than women to receive an FPN in Scotland; however, the age profile of male and female FPN recipients was virtually identical.

Four out of five FPN recipients had a prior criminal history, and one in five had first come to the attention of the police over 20 years ago. It could be that those with a prior history of offending were less willing and/or able to comply with the Regulations, or it is possible their non-compliance was more visible to or less tolerated by the police.

There was a significant skew in the deprivation profile of FPN recipients, as shown below. A third of all FPN recipients were living in the 10% most deprived neighbourhoods in Scotland (2020 Scottish Index of Deprivation).

People living in top decile of deprived Scottish neighbourhoods were 11.2 times more likely to receive an FPN than those living in the bottom decile. Possible reasons for this disparity could include different levels of compliance with the restrictions, public reporting practices or local deployment of policing resource.

These socio-demographic differences reflect an additional degree of inequality in the way the pandemic has been experienced amongst certain groups within Scottish society.



## Comparison of single and repeat FPN recipients

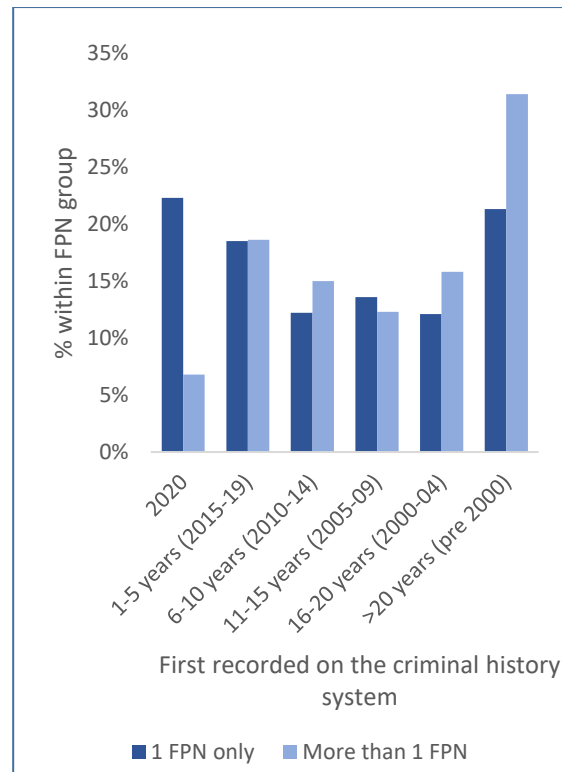
Just over one in ten FPN recipients were fined more than once, but repeat offences became less common as time went on during the first lockdown.

There was no significant difference in the profile of single and repeat FPN recipients according to sex, ethnicity or country of origin; however, people receiving two or more FPNs were older, on average, than single recipients.

Around half of all single and repeat FPN recipients were living in the top 20% deprived neighbourhoods of Scotland, but living in a deprived community did not increase the likelihood of receiving more than one FPN.

Most people who received an FPN for breaching the Coronavirus Regulations already had a criminal record prior to the pandemic; however, repeat FPN recipients were significantly more likely than single recipients to be already known to the police. As shown in the figure below, repeat FPN recipients were less likely to be recorded on the criminal history system for the first time in 2020 and more likely to have been first recorded over 20 years ago.

A better understanding of the characteristics, behaviours and experiences of people with a criminal record in Scotland may help to explore barriers to compliance and identify better ways of ensuring compliance with future public health restrictions.



## Geographical profile of FPN recipients

There was substantial variation across police divisions in the number of people who received FPNs. These differences narrowed after taking account of population size, although there was still some variation, as shown in the figure below.

The rate of people issued with FPNs was highest in the West of Scotland and lowest in the North of Scotland. By division, rates were highest in Greater Glasgow and lowest in the Lothians and Scottish Borders.

There was very little difference across divisions in terms of the sex, age or criminal history profile of those who received FPNs.

There was a substantial difference in the proportion of FPN recipients living in the most deprived communities across divisions; however, this did vary in line with the deprivation profile of these areas.

A few divisions had a higher than expected percentage of FPN recipients living in more deprived communities, including the North East, Highland & Islands and Dumfries & Galloway divisions; although this may have reflected people travelling into these areas rather than those living there.

Tayside and Highland & Islands divisions had the highest overall percentage of repeat FPN recipients; however, these divisions issued very few FPNs overall.

## What safeguards are in place?

A fixed penalty notice under The Health Protection (Restrictions) (Coronavirus) (Scotland) offers the person to whom it is issued the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty in accordance with these Regulations.

Generally, it will be appropriate for a police officer to issue a fixed penalty notice in circumstances in which they would otherwise have considered submitting a report to the Procurator Fiscal for a minor fixed penalty offence.

If a person thinks that they have been issued with a fixed penalty unfairly, they should contact Police Scotland and let them know that they

dispute it. It should be noted that were an individual has paid the fine then a FPN can no longer be challenged as the disposal is then complete.

Once this refusal has been communicated to the police, a report will be sent to the Procurator Fiscal for consideration. If the Procurator Fiscal decides that the case should proceed, the individual may be cited to appear in court. If this happens, the FPN recipient will have the opportunity to challenge the allegation.

## Further reading

Find out more about the [Independent Advisory Group on Coronavirus Powers](#).

You can read a full copy of [the report](#) on which this document is based.

## Keeping up to date

To keep up to date with our work, please keep an eye on the Scottish Police Authority's [website](#) where you can find papers and watch livestream committee discussions, and follow us on Twitter:

@ScotPolAuth @policescotland