

Meeting	Authority Meeting
Date	19 August 2020
Location	Video-conference
Title of Paper	the Independent Advisory Group on Police Use of Temporary Powers related to the Coronavirus Crisis
Presented By	John Scott QC, Solicitor Advocate Professor Susan McVie, University of Edinburgh
Recommendation to Members	For discussion
Appendix Attached	Appendix A, B, C, D

PURPOSE

To provide the third interim report to the SPA on the work of the Independent Advisory Group on Police use of temporary powers related to the Coronavirus Crisis.

The paper is submitted for discussion.

To the Board of the Scottish Police Authority
For the Meeting of 19 August 2020

Third Interim Report of the Independent Advisory Group on Police Use of Temporary Powers related to the Coronavirus Crisis

Chair's Introduction

This report is to update the Board of the Scottish Police Authority (“SPA”) with a summary of our work since our second interim report dated 28 June 2020. It adds some more detail by way of analysis of data from lockdown in April and May, before the easing which started with phase 1 of the Scottish Government’s Route Map Through and Out of the Crisis¹ (“the Route Map”). Further work is ongoing on disaggregation of data from this period to provide analysis of individuals and details of repeat offending. We hope to complete the analysis of relevant data and evidence for that period and subsequent phases, for inclusion in our report to the SPA for the Board meeting on 30 September.

Although it does not include analysis of data from the subsequent phases – during which time, related police activity and enforcement of Coronavirus restrictions reduced significantly - this report also offers some comment on aspects of policing in phases 1, 2 and 3 of the Route Map which commenced, respectively, on 28 May, 19 June and 10 July 2020.

The early stage of lockdown remains important because it still represents the height of restrictions to date and use of the emergency powers at that time offers opportunities for learning and improvement. One of the advantages of our review is the absence of the need to rely on hindsight – we started looking at the use of the emergency powers at a time when they were being used most frequently and thereafter as their use settled into more recognisable, consistent and reduced patterns. While the hope has been that such restrictions would not be necessary again, it was understood that it could not be ruled out. Recent circumstances in Aberdeen have served as a reminder that the virus has not disappeared and bespoke “local lockdowns” are, understandably, the

¹ <https://www.gov.scot/collections/coronavirus-covid-19-scotlands-route-map/>

option preferred by government over re-imposing lockdown on a national basis. Local lockdowns bring their own challenges for Police Scotland, some of which we discuss below.

30 July Public Event – IAG and SPA Board

Since our last report, IAG members attended a specially arranged public event with the SPA Board on 30 July. The event was arranged by the SPA to allow us an additional opportunity to discuss our work with Board members. In regular discussions between me and the Board's Vice-Chair, David Crichton, we recognised that, given the SPA's ongoing remit and responsibilities, the agenda for each Board meeting is inevitably demanding and there was an appetite to allow greater scope in a public space to focus on the work of the IAG.

Ahead of the event, we asked for questions, reaching out through our networks as well as asking Board members and others within Scottish Government and partner agencies, such as the Scottish Community Safety Network. Several IAG members contributed to discussions, allowing an additional glimpse at the diversity of contributions within our group.

At the event, there was particular focus on the detailed IAG report and appendices submitted for the last SPA Board meeting on 30 June.

The event can be viewed at:

<https://www.spa.police.uk/news/independent-advisory-group-webinar/> and has also been split into smaller sections by Jennifer Blackwood of our secretariat for dissemination on social media and other channels.

The event was chaired by Dr Liz Aston of Scottish Institute for Policing Research and has been received as a welcome addition to the public accountability of the IAG, the SPA and Police Scotland. I am exploring the possibility of a further similar event with David Crichton as we move towards what will likely be the final stages of our work on police use of emergency powers.

Inequality and Discrimination

As outlined in our previous interim reports to the SPA Board, we have been seeking evidence of different sorts to allow us to assess human rights compliance by Police Scotland in its exercise of emergency powers. This has involved data and other evidence from first-hand personal accounts and testimony (from the public and within policing), general views and impressions, and public surveys. Our aim has been to look at all evidence to inform views and recommendations.

Some evidence that we have seen highlights the issues of inequality which we mentioned in our first report. People's priorities remain focussed on health (physical and mental), bereavement, children, schools, food, money, jobs – all of these and more have been more pressing matters for many than issues of policing the pandemic. However, various aspects of the pandemic have exacerbated pre-existing inequalities and created additional hurdles for adherence to aspects of lockdown.

Additional analysis of enforcement data reinforces our impressions, based on other evidence, of policing of the pandemic occurring in a manner which may enjoy significant public confidence but overlies pre-existing inequalities and deprivation, with some pandemic restrictions aggravating these. While data confirms a significant overlap of “recipient” of enforcement of coronavirus regulations and “normal’ policing activity, it points just as much to what we know about our criminal justice system more generally – it is not as simple as saying that our system involves the criminalisation of poverty but the patterns are such that it is an understandable shorthand means of conveying the headlines of some of the underlying complexities.

Poverty and inequality in the pandemic have implications and additional challenges for policing. We know that people living in poverty and some in the most vulnerable groups have had to leave their homes even when we were all being required or encouraged to stay at home. Not everyone is able to work from home or stay safely at home.

Indeed, it is frequently those in some of the most deprived circumstances who will be unable to do so and yet have no financial

cushion to allow them to miss work even for a short period or find alternative accommodation. Those living in such circumstances who felt compelled to leave the house were obviously more exposed to the possibility of law enforcement measures.

This is a recurring theme in our work. It is well recognised by the Scottish Government as is the fact that significant work is required to address long-standing and more recent issues of inequality and discrimination. As it says in one of the Scottish Government's Framework Decision-Making documents:

*We are also working closely with Police Scotland and others to assess the best ways to ensure continued good compliance where it remains necessary to keep restrictions in place, and enforcement of those which are legal requirements. We recognise that expecting people and organisations to comply with the difficult rules means that we must, in turn, enable people to tell us about how these rules are affecting them. We must listen to those views and take account of them in our future decision making. **We also recognise that people tend to comply with the rules when they are able to do so. This means that we must ensure that the right support is in place provided by different levels of government, the broader public sector and wider partners to enable everyone to comply with the rules.***² [Emphasis added]

If and when further lockdown measures are needed, it is to be hoped that government and others will be able to look back at the first lockdown and improve on early efforts. We have discussed the need, consistent with this, to look at what can be done to support people in adherence to lockdown, in other words enabling and empowering individuals and communities, particularly disadvantaged and deprived communities, as opposed to thinking mainly in terms of enforcement. A shift in the emphasis on enforcement may be seen in the precise terms of the local lockdown regulations for Aberdeen which focus on restrictions on premises rather than additional regulatory demands on the public. Additional support to enable adherence is crucial, albeit outwith our Terms of Reference.

² <https://www.gov.scot/publications/coronavirus-covid-19-framework-decision-making-further-information/>

Throughout the last few months, I have been in regular contact with colleagues in other jurisdictions – for example, Eleanor Hourigan and Adam Wagner, respectively Counsel and Specialist Advisor to the Joint Committee on Human Rights at Westminster (which is due to report next month following its inquiry into the human rights implications of the UK Government’s response, wider than but including policing, to COVID-19³) and John Wadham, Human Rights Advisor to the Police Service of Northern Ireland Policing Board (also due to report next month on his work on emergency powers). This contact and discussions with others interested in the policing of (and policing in) the pandemic, suggest that Scotland has taken a lead in encouraging additional collaborative, human-rights based scrutiny of unprecedented powers which might serve as a useful model and offer additional public assurance around a state’s exercise of exceptional powers in an emergency.

These discussions, as well as discussions within the IAG, have prompted the inclusion with this report of an addendum which the Board and Police Scotland may wish to consider for discussions with the Scottish Government about effective communication and emergency legislation which reflect human rights standards around transparency, accountability and scrutiny.

Appendices

Our report is accompanied by the following documents as appendices:

1. Autistic experience of COVID-19 legislation and guidelines Survey May-June 2020 (Dr Catriona Stewart, July 2020).
2. Glasgow Disability Alliance Advice on interactions with disabled people (Tressa Burke CEO and Marianne Scobie Deputy CEO, July 2020).

³ <https://committees.parliament.uk/work/218/the-governments-response-to-covid19-human-rights-implications/>

3. Data Report on Police Use of Fixed Penalty Notices under the Coronavirus Regulations in Scotland (Professor Susan McVie, August 2020)

Liaison with the SPA continues on a weekly basis, largely through our impressive secretariat - Eleanor Gaw, Fiona Miller, Jennifer Blackwood and John McCroskie. I remain grateful also to David Crichton, Vice-Chair of the SPA Board, for his continuing support and advice and to Martyn Evans who contributes significantly to the entire process, not least through his membership of the IAG, the OpTICAL Group and the SPA Board.

John Scott QC Solicitor Advocate
17 August 2020

Compliance, Enforcement and Data: Exercise of the Powers – Fixed Penalty Notices

Police Scotland continue to publish enforcement data⁴. Completing the data picture for the IAG has involved additional work, in particular by Police Scotland. We have continued to obtain as much context as possible to try to understand the answers to some questions prompted by the data. In this area, the assistance of Police Scotland's OpTICAL group has continued to be invaluable⁵. This has included manual checks by Police Scotland staff on individual Fixed Penalty Notices (FPNs), which was resource-intensive but provides scope for a more detailed understanding of the circumstances of the issuing of FPNs and details about those on the receiving end of policing activity.

Enforcement is an area addressed more fully in Professor McVie's latest data report. Using data provided by the OpTICAL Group, it provides the first detailed analysis of Police Scotland's use of enforcement during the

⁴ <https://www.scotland.police.uk/about-us/covid-19-police-scotland-response/enforcement-and-response-data/>

⁵ For more information about OpTICAL, see our second interim report – <https://www.spa.police.uk/spa-media/5erhkjeb/rep-b-20200629-item-5-iag-report.pdf>

initial lockdown phase of the Coronavirus pandemic. Once more, consideration of the data emphasises the small numbers of FPNs issued. This is a key aspect of this evidence. Largely, this is due to the continued remarkable efforts of the public to follow guidance as well as regulations. It also highlights the success in Police Scotland's use of the 4 Es approach, with enforcement rightly seen as a last resort which has proved effective in avoiding the issuing of FPNs.

Professor McVie's report provides information on all FPNs that were issued in Scotland over the period from 27 March to 31 May – "*the nature and circumstances of the FPNs issued and the aggregate demographic profile of all recipients, but does not include analysis of individuals or details of repeat offending, which will be the subject of a later report*". It will be observed from the report that, as has been the case elsewhere in the UK, use of FPNs has proportionally involved recipients who are young men in deprived areas, often with prior criminal records.

In terms of additional detail, Professor McVie says:

Overall, these findings suggest that use of enforcement by Police Scotland during the initial phase of the lockdown did primarily involve people living in the poorest parts of Scotland. This was true regardless of age, sex and ethnicity. However, the disparity indices show that there was an incremental likelihood of receiving an FPN amongst women, those aged 41 to 55 and people from White and African, Black or Caribbean backgrounds who were living in poverty, compared to other groups.

When reading the report, it is important to bear in mind the very small number of FPNs actually issued and the very small proportion of different groups in society that experienced police use of enforcement. All differences in percentage terms between different minority groups have been tested for statistical significance, and these are reported where appropriate.

Addressing the comparison with other parts of the UK, mentioned in our second interim report and the recent National Police Chiefs' Council report⁶, Professor McVie states:

“...caution must be taken in interpreting any comparisons between these three jurisdictions and drawing conclusions about the rate of Coronavirus-related police enforcement, for two main reasons. First, the absolute number of FPNs issued in all three countries was very small and population sizes are large, so large differences in rates can conceal small differences in numbers. And second, these rates are based on the number of FPNs and not the number of people who received FPNs, so any difference between countries in the issuing of multiple tickets to the same individuals would lead to different rates.”

Additionally, it should be noted that there is no equivalent data in England and Wales around their use of the first 3 of the 4 Es which is clearly a key part of the picture.

Taking the evidence as a whole, including direct feedback from the public and the proportionally small numbers involved, we remain satisfied that use of the emergency powers has been generally compliant with human rights principles, Police Scotland values and the purposes of the Coronavirus legislation.

Public attitudes

The various means of testing public attitudes, including our public portal, continue to reflect support for the approach of Police Scotland to policing the pandemic, albeit with some continuing to seek greater use of enforcement and some seeking less.

Communications – General

In general, it appears to us that communications in Scotland have remained clear and consistent, from Police Scotland, the Scottish Government, and the First Minister. This appears true of internal as well as external communications from Police Scotland.

⁶ <https://news.npcc.police.uk/releases/independent-analysis-of-coronavirus-fines-published>

A recent report⁷, by University College London (“UCL”) appears to confirm public confidence in messaging, with understanding of the rules reported to be highest in Scotland (75% reporting they understood them, and 27% reporting they understood them ‘very much’) but lower in Wales (61% reporting understanding, and 18% ‘very much so’), and lowest in England (45% reporting understanding and 14% ‘very much so’). This was seen as notable given that compliance appears to have been lower in England compared to Scotland and Wales.

Communications – guidance/regulations

In our last report, we mentioned the Dominic Cummings episode and his bizarre “eyesight test”. Although we do not believe that it has significantly affected adherence levels in Scotland, there is some evidence – see the UCL report mentioned above - that it affected public confidence in England. In the Lancet, the effects of the episode have been given a name – the Cummings Effect⁸. The ongoing Police Scotland Your Police survey suggests an impact on public opinion in Scotland of the episode, with an increase in the numbers who wanted tougher action when the story broke.

When the UK Government abandoned the blurred distinctions between regulations and guidance to justify Mr Cummings’ choices, it prompted questions about what was required by law as opposed to desired or recommended – the demand, not the ask.

The recent Aberdeen regulations are an example of a continuing gap between the two – the ask around restrictions on distance travelled, for example, can be distinguished from the demand to certain businesses that they close their premises. As before, while messaging, and even the first three of the four Es in the policing approach (engage, explain, encourage), may incorporate elements of both, only the regulations can be enforced.

⁷ https://b6bdcb03-332c-4ff9-8b9d-28f9c957493a.filesusr.com/ugd/3d9db5_8f72d734373243f68867ad8465fb9588.pdf

⁸ [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(20\)31690-1/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(20)31690-1/fulltext)

Continuing lack of clarity around the distinction, whether deliberate or not, means that confusion is still possible for the public and police. On the other hand, we recognise and acknowledge that appropriate legislative reticence on the part of government is to be commended.

Only where a particular measure requires legislative backing should it form the subject of regulations or other legislative restrictions. This is important, especially given what we have said about the challenges for some people to adhere to restrictions. If their difficulties relate to guidance, there can be support but without the threat of enforcement. It may be that the Scottish Government has moved away from legislative restrictions in recognition of the remarkable levels of public adherence. While the Government reserves the option to back guidance with regulations, it appears to us to be right to start by trusting the public to do the right thing for its own sake. This also allows Police Scotland to prioritise the growing levels of other policing demands.

“Normal” policing - Transitions

Other than when local lockdowns have been necessary, transitions through phases and greater easing of restrictions have seen Police Scotland continue to move out of the spotlight as regards policing the pandemic and back into a more normal policing space. Local authorities and others have had to play lead roles in “policing” residual or new restrictions, with Police Scotland’s role in enforcement increasingly a backstop. It is to be hoped that this emphasis on other agencies taking responsibility will continue.

Quarantine regulations

While the role for policing the quarantine regulations has been limited, consistent with the concept of policing as a backstop, the world of football has supplied a high-profile example of a breach of regulations, involving the issuing of a Fixed Penalty Notice to Celtic FC player Boli Bolingoli for an unexplained 24 hour visit to Spain and apparently complete failure on his return to comply with any of the key quarantine requirements⁹.

Face coverings

General impressions are of high levels of adherence to this regulation and little additional work for Police Scotland with only a single Fixed Penalty Notice having been issued in the early weeks of the relevant regulation¹⁰.

After some issues had been raised with us about those who are unable to wear face coverings, for example, for health reasons, we wrote on 13 July to the SPA to offer a reminder of some of these problems as well as lessons from the policing of other aspects of the pandemic, in particular the “last resort” use of powers of enforcement.

“Local lockdowns”

As anticipated in our second interim report, the general progression towards easing of restrictions has been accompanied by an approach which targets increased prevalence of the virus in particular areas – so-called “local lockdowns”. The first local lockdown in Scotland was in Dumfries and Galloway. In the event, it lasted only a few days and seems to have been implemented not by specific new regulations but by exempting that area from the easing of restrictions which were happening everywhere else in the country.

⁹ <https://www.heraldscotland.com/sport/18644061.celtic-defender-bolingoli-hit-police-fine-breaching-quarantine-rules/>

¹⁰ <https://www.bbc.co.uk/news/uk-scotland-53523574>

Regulatory backing seems to have come only from the Health Protection (Coronavirus) (Scotland) Regulations 2020 (“the 2020 Regulations”), with specific offences still then in place regarding restricted movements (and defences where there was a reasonable excuse). In terms of messaging, emphasis was placed on not travelling more than 5 miles.

The next local lockdown required specific regulation due to easing restrictions in the main 2020 Regulations - the Health Protection (Coronavirus, Restrictions) (Aberdeen City) Regulations 2020¹¹. Although again accompanied by messaging around restricted travel, the regulations themselves related only to premises (“*These Regulations require the closure of businesses selling food or drink for consumption on the premises in the local authority area of Aberdeen City.*”)

It is instructive to consider the more restrictive lockdown regulations introduced in England, for example, those introduced to deal with the virus outbreak in Leicester - the Health Protection (Coronavirus, Restrictions) (Leicester) Regulations 2020¹². These introduced restrictions on premises, gatherings, linked households and overnight stays.

Similar regulations¹³ have been introduced subsequently for other parts of the North of England, imposing restrictions on gatherings of two or more persons in private dwellings in a “protected area” in the North of England, and impose restrictions on other gatherings of more than 30 people in that area. They also impose restrictions on persons who live in the protected area participating in gatherings of two or more persons in private dwellings outside of that area.

The greater local restrictions in regulations in England may yet be mirrored in regulations for local lockdowns in Scotland. What is required for local lockdown regulations may depend on the particular circumstances in a given locality as well as the position at the time with

¹¹ <https://www.legislation.gov.uk/ssi/2020/234/contents/made>

¹² <https://www.legislation.gov.uk/uksi/2020/685/contents/made>

¹³ <https://www.legislation.gov.uk/uksi/2020/828/contents/made>

any residual restrictions in the main regulations. As stated earlier, the Aberdeen regulations can be seen as an example of welcome legislative reticence.

For obvious reasons, including reasons connected to the economy, local lockdowns are a model preferred by the UK Government as well as the Scottish Government. News of outbreaks and clusters in different areas are therefore a cause of anxiety with cohesion of effort seemingly only as good as the least patient, attentive or responsible member of any community.

Policing local lockdowns will be complex, not least because of the increased demands of “normal” policing. In Aberdeen, there was a deliberate show of additional police resources on the first day of the local lockdown. No doubt assisted by such efforts to persuade the community of the seriousness of local restrictions, adherence in Aberdeen seems to have been generally good albeit with one very high profile example of apparent flouting (which pre-dated the specific restrictions of the local lockdown but are relevant here) by some players of Aberdeen FC¹⁴. While we fully recognise the difficulty in keeping entirely up to date with the regulations, it is hard to see that eight players in any team could ever be considered part of a single household for the purposes of socialising indoors (*“We thought because we were together every day we were part of one big household, that’s where we went wrong.”*¹⁵)

Public, political and footballing reaction to the football players’ breaches of regulations suggests that while, generally, the public may resent apparent flouting of “the rules”, they will condemn rather than copy the offending conduct.

¹⁴ <https://www.bbc.co.uk/news/uk-scotland-north-east-orkney-shetland-53693871>

¹⁵ <https://www.dailyrecord.co.uk/sport/football/football-news/jonny-hayes-breaks-aberdeen-silence-22490814>

The Divisional Commander for the North East, Chief Superintendent George Macdonald, responsible for Aberdeen and Aberdeenshire, attended our meeting on 14 August. We are grateful to him for doing so, especially given the rail crash tragedy which occurred within his area on 12 August. He confirmed the high levels of public adherence to lockdown guidance in Aberdeen, with relevant premises also respecting the new restrictions. The Aberdeen lockdown is kept under a rolling seven day review and has been continued for a further seven days.

Local lockdowns have been a feature of the approach of governments to Covid-19 elsewhere, not just in England. The IAG Chair had discussions with a senior police officer in Victoria, Australia, where there had been a serious outbreak of the virus and lockdown regulations introduced and enforced at a level more stringent than anything yet seen in Scotland or the UK. These included travel restrictions and other restrictions on freedom of movement. Policing measures in enforcement included roadblocks round the city of Melbourne and isolating the occupants of large tower blocks where outbreaks had been identified.

Understandably, both of these policing measures had involved considerable disruption, including disruption to those with necessary and legitimate reasons for travel, as well as public disquiet. Public confidence in policing has apparently suffered as a result. Matters had developed to the extent that the army had been asked to help out with the policing of some restrictions, often accompanying police officers on patrol, albeit unarmed. The discussion emphasised the considerable challenges, indeed perhaps the impossibility, of trying to address public health restrictions primarily by enforcement.

Additional restrictions

On 7 August, the First Minister announced additional restrictions to come into force by way of regulations on 14 August 2020.

The first was to make it mandatory for a range of settings, including hospitality businesses, to collect customer details. That requirement already existed in guidance, but has now been placed on a statutory footing.

Secondly, new statutory guidance is to be issued relating to indoor hospitality with the aim of ensuring greater compliance with some of the key public health measures – such as physical distancing.

The First Minister said that the Scottish Government would “work closely with Police Scotland and local environmental health teams to explain these measures – and if necessary, enforce compliance.”

The regulations introducing the first aspect of these new provisions were published only on 14 August.

Tightening up of requirements around face coverings, announced at the same time by the First Minister, were brought into force by regulations¹⁶ which were published on 7 August and brought into force on 8 August.

The Work of the IAG

The Group has continued to meet regularly, by means of a suitable online platform, albeit the frequency of our meetings has now reduced to once a week. Coupled with regular contact between meetings, this continues to ensure the sort of dynamic review originally discussed between Police Scotland and the SPA, meaning that the Group is able to provide assistance and guidance on matters as, or shortly after, they arise in still changing circumstances. Much work has also been done in between meetings by way of telephone calls and email exchanges between Group members, members of the SPA Board and staff, and senior officers at Police Scotland.

¹⁶ <https://www.legislation.gov.uk/ssi/2020/236/introduction/made>

The Group has continued to seek to hear the voices of community and grassroots representatives, advocates and activists.

This has been done by use of personal contacts and networks, letters, emails and social media. We have continued to make it clear that we want to hear from people with their experience and views on the use of the emergency powers.

We have had further discussions with Divisional Commanders from different parts of the country, in addition to ongoing input from Police Scotland through DCC Kerr and some of his senior colleagues.

We continue to engage with relevant outside experts – see appendix B for details.

Work Programme

See appendix B for the detail. Notes of our meetings since our second interim report will be put on our page on the SPA website after this report is published.

Public portal

This went live on 1 June 2020. As at 14 August 2020, we have received 68 responses. The 40 responses received as at 16 June were analysed by Professor McVie and included in her first interim data report (submitted as an appendix to our last interim report). The portal was due to remain live until 1 September 2020. After discussion, we have decided to keep it live until the end of September which takes us just beyond the original expiry point for the emergency powers.

Impact on Autistic People

IAG member, Dr Catriona Stewart's SWAN Scotland survey highlighted:

- the key importance of effective communication in building public confidence, and that this has been a significant challenge for autistic people
- some groups of people, including autistic people, do much better when there is a clear list of "do's and don'ts" rather than general statements about common sense and discretion
- the adverse impact on autistic people of lack of clarity on what is permissible and related anxiety about, for example, being challenged if perceived as potentially breaking lockdown rules; around wearing a mask; requirements or potential conditions around returning to work, or being able to go shopping and outdoors.

Based on her own experience as well as that of others within her networks, Catriona has also pointed out that there can be issues around the impact on the human rights of some sections of the population when others exercise what they see as being their "rights". For example, some autistic people feel even less able to go out despite being permitted to do so when they see others disregarding guidance which they themselves are strictly adhering to.

Impact on Disabled People

The GDA advice document was informed by GDA telephone discussions with 4,000 disabled people, or around 4/5th of their members. GDA also ran an additional focus group for those who have had direct police interaction during the period.

This work confirmed a background in which, even before the Coronavirus crisis, many disabled people were already struggling. The emergency situation exacerbated this for many.

Hidden disability, including autism and mental health issues, and intersectionality where people may be experiencing multiple discrimination, were particular concerns.

Evidence emphasised the need for clear communication and some of the challenges in communicating effectively with people who have different needs; the need for appropriate use of discretion by police; and that the “common sense” approach on Covid-19 did not serve all sections of the community equally well, particularly some autistic people. GDA already works with Police Scotland on approaches to hate crime, and it was noted that there is scope to involve them further in training on hidden disabilities.

The GDA paper offers insight into “lived experience”, and reflects a very significant body of work in a field where there is little comparable research.

Impact on children and young people

The Independent Children’s Rights Impact Assessment on the Response to Covid-19 in Scotland¹⁷, mentioned in our last interim report, was published on 16 July 2020. It covered a range of subjects of importance to children and young people. Of relevance to our work, appendix 9 dealt with Children in Conflict with the Law and Children in Secure Care.

IAG member and Children and Young Peoples Commissioner Scotland (“CYPCS”), Bruce Adamson, discussed the Independent Children’s Rights Impact Assessment with IAG members. A major concern was the lack of involvement of children and young people and the failure of decision makers to take into account the significant impact on children and young people of Covid-19.

¹⁷ <https://cypcs.org.uk/news-and-stories/rights-of-children-overlooked-during-coronavirus-emergency/>

The unequal treatment of children and young people during this period was concerning, as they had also faced immense challenges ranging from no schooling, to a lack of contact with older relatives and little access to peer support.

Children, young people and their families are experiencing considerable anxiety at this important stage of transition in easing, especially with schools having re-opened.

In recent weeks, there have been suggestions in the media of young people's behaviour in some countries being responsible for outbreaks of the virus. There has also been some discussion about the possibility of transmission involving young people and older children. This has led to concerns about children being removed from school, detained and possibly tested without parental consent, if "potentially infected". CYPCS are working with Police Scotland to ensure clear understanding of, and messaging about, the relevant powers.

CYPCS is also making contact with both the Victorian (Australia) Children's Commissioner and the New Zealand Commissioner following the lockdown in Auckland after 100 days to discuss policing issues for children and families.

The position of disabled young people was highlighted. Many were already disadvantaged and have faced additional inequalities, particularly those who were in the process of transitioning from youth to adult services, where contact has been lost and will require to be re-established.

CYPCS continues to engage with the Youth Justice sector organisations to gather evidence of children and young people's experiences throughout each phase of the emergency and is reporting to the Scottish Parliament's Justice, Covid-19, Equality and Human Rights, and Education and Skills Committees on all areas of new legislation and guidance.

Impact assessments - Community Impact Assessment, Equality and Human Rights Impact Assessment and Child Rights and Wellbeing Impact Assessment

Chief Inspector Coleen Wylie attended an IAG meeting to discuss impact assessments. She outlined Police Scotland processes to impact assess all major and critical incidents, and how the process worked in practice. The process is designed to support communities and build trust and confidence, identify potential tensions locally or in communities of interest and take steps to reduce or resolve these issues at an early stage.

Recent examples relating to COVID-19 included:

- Police working with partners to offer targeted guidance for staff on engaging with autistic people, and to offer additional reassurance to those impacted. Police Scotland identified an increased risk of anxiety among autistic individuals, which could be compounded if the person concerned was spoken to by a police officer or was worried about this happening. By working with partners, Police Scotland provided a range of support materials for staff to help to mitigate adverse impacts.
- Concerns were identified in some parts of the South East Asian community about a potential increase in hate crime related to the pandemic. This required further engagement with partners to offer enhanced support for the reporting of hate crime.

The importance of frontline officers being briefed and alert to what is happening locally, and then reporting back into Police Scotland on what they are observing and experiencing in communities, was highlighted.

Police Scotland has a statutory duty to complete an Equality and Human Rights Impact Assessment when a new policy or practice is being considered or implemented. Chief Inspector Wylie outlined the process, and briefed IAG members that, by adopting this method of working from the outset, the full range of perspectives are taken into account, and there is broad consideration of impact prior to implementation.

Members were offered assurance that Police Scotland works with partners on an ongoing basis to address any community concerns. For example, work has been undertaken with partners working with disabled people, to jointly develop guidance for front line officers, and signpost routes for additional support.

Further work is underway to develop the Children's Rights and Wellbeing Impact Assessment by Police Scotland. CYPSC and their young advisors have been assisting Police Scotland with this and related matters throughout the work of the IAG.

Priorities are reflected in the Operation Talla Risk Register to ensure they are addressed, and the Police Scotland Executive Team receives regular updates from the Equality and Diversity Unit.

Conclusion

In terms of the primary role of the IAG in the Terms of Reference¹⁸, our work, synthesising a number of strands of data and other evidence, serves to confirm that use of powers by Police Scotland in general remains compliant - both in application and spirit – with:

(a) human rights principles and legal obligations, including those set out in the Human Rights Act 1998 and the Scotland Act 1998

(b) the values of Police Scotland – integrity, fairness and respect - and its 'safety and wellbeing' remit as laid out in the Police and Fire Reform Act (Scotland) 2012, and

(c) the purpose of the 2020 Act and Regulations, namely safeguarding public health.

¹⁸ <https://www.spa.police.uk/spa-media/5gXHinni/tor-final-27-4-20.pdf>

While the main work of our group is planned to end when the emergency powers lapse (as things stand, for most of those relevant to policing, this should be in September 2020), we aim to produce a final report thereafter, offering some additional views on the positives in this experience as well as lessons to be learned. It is hoped that this will be of assistance in the event of the re-imposition of lockdown, whether on a national or, as seems more likely, a local level. We will therefore offer a degree of retrospection, but also reflect further on the benefits of the “real-time” review model.

Addendum

In the introduction to our last interim report, I mentioned laws passed in situations of urgency, in particular regulations enacted by the Scottish Government before approval by the Parliament. This is a theme which continues in our discussions, as well as discussions in human rights networks throughout the world.

Many countries are currently wrestling with the need to increase the role for parliamentary scrutiny and reduce the use of executive action, albeit recognising the need for government still to be able to act urgently in appropriate circumstances. Proper post-legislative scrutiny and evaluation is, of course, crucial in these times to meet such urgent action but we need to keep the balance under review and allow for pre-legislative scrutiny where possible. Human rights and other impact assessments should also feature where possible. Again, recognising that time may not always permit in a pandemic, such assessments should not be considered legislative luxuries and should be produced, even retrospectively. Parliamentary debate and scrutiny, and human rights assessments, have improved legislation over many years. They can do so even in situations of urgency. Simple drafting errors can be spotted, other mistakes can be avoided and policy decisions can be properly informed by fundamental human rights principles. Even just a little time can also assist with preparing and disseminating guidance to the public and allow the police to formulate strategy for the necessary operational decisions and prepare training and guidance for officers.

This is all relevant to our work as it can impact on the effectiveness of restrictions which involve Police Scotland in enforcement. For example, when the Aberdeen lockdown was announced, the relevant regulations were published only hours before they came into force on 5 August and only laid before the Scottish Parliament one hour before implementation, allowing little time for thinking, preparation and dissemination and no time for scrutiny.

Some of these concerns highlight rule of law issues of transparency, accountability, scrutiny and effectiveness.

What may be justified by the need for emergency action at the early stages of a crisis should be kept under review as that justification will almost certainly lessen over time. Indeed, the passage of time should allow for discussions around contingency planning so as to avoid the need for regulatory surprises even when urgent action is required.

The need for, as well as the detail of, particular restrictions should continue to be explained by government in a timely manner to maintain public trust and confidence, as well as being a matter of fairness to the public and enforcement agencies, including the police. Public communication is also key to the effectiveness of regulations. Sometimes government may consider that a delay in announcements about detail is necessary to ensure clarity of message or to avoid confusion. Sometimes it may be because the detail is still being worked out with the legal drafting being done only thereafter, in much more of a hurry than usual.

Our impression is that, on the whole, the risks of telling the public what is happening at the last minute are greater than the risks of telling them too soon. As before, we do not have to look too far for a suitable warning example. The communications debacle on 30 July over the introduction of a local lockdown in the North of England, announced primarily by late evening Tweets and a short video clip featuring the UK Health Secretary, and accompanied after introduction by Mr Hancock trying in vain to persuade an unconvinced public that the changes were “crystal clear”¹⁹, highlights the problem. Saying that something is “crystal clear”

¹⁹ <https://www.mirror.co.uk/news/politics/fury-northern-lockdown-disaster-matt-22446772>

(or “world-beating”), even repeatedly, does not make it so. If regulations are changed and communicated in a way that means you are comfortably abiding by restrictions at 9 pm when you start a night out but may be in breach of guidance only hours later when your night out ends, a rethink of approach may be required.

Further communications problems were highlighted on 31 July when Mr Hancock, having been asked in a radio interview about an apparent contradiction between what he had said in an earlier interview and government guidance, was unable to confirm the position or illustrate the difference between the two (“*The Health Secretary said initially that there was a 'distinction between the guidance and the law' - but failed to expand further and said: 'I'll absolutely get back to you on that*²⁰.”) While government ministers have a demanding job to do in these difficult circumstances, a minimum requirement in effective communications is that the messenger understands the message. It helps, as usually happens in Scotland, if there is continuity in the identity of the messenger.

Where there is a degree of uncertainty about what may have to happen, that can and should be explained too. Politicians, especially UK Ministers whose messaging travels north of the border even in devolved matters, should realise that humility can co-exist with confidence, and may improve public trust. However, once decisions have been made, they should be explained fully, clearly and consistently. If particular restrictions are thought necessary, then it is equally necessary for them to be explained and communicated effectively.

Everyone understands the need on occasion for urgent action by government. However, Government needs to be better at ensuring that urgent action without scrutiny occurs only when absolutely necessary, with transparency around actions allowing for detailed scrutiny at as early a point as possible, thereby allowing for proper accountability. The need for proper parliamentary and other scrutiny as well as adequate warning to the public (and the police) suggests that government

²⁰ <https://www.dailymail.co.uk/news/article-8579923/Matt-Hancock-ties-knots-people-Manchester-leave-area.html>

proposals for additional restrictions should be published earlier and certainly not, as happened in Scotland with the quarantine regulations, less than 24 hours before coming into force.

As we learn more, it seems to us that there will be, and have been, greater contingency planning within government. This should allow for the possibility of scrutiny and discussion of various options before particular measures have to be brought into force. It would allow for consultation with opposition parties, statutory human rights bodies and others and might help to avoid some of the basic errors in drafting which we have seen, for example, failing to use the UNCRC definition of children when introducing emergency Fixed Penalty Notices.

(It is worth noting that the original UK Act also defines children as under 16s but only in Scotland. CYPSC will be seeking amendment or repeal of these UK provisions around powers to detain and charge with offences which, again, in Scotland carry a maximum penalty of imprisonment as opposed to a fine in England Wales and Northern Ireland. This discriminatory distinction, never explained by the Scottish Government, is an example of a misstep which could have been avoided with some additional space for scrutiny.)

Making greater space for scrutiny would also be consistent with the approach of the Scottish Government outlined in various documents around its Framework for Decision-Making which explain some of the evidence and strategy for handling the pandemic²¹.

²¹ <https://www.gov.scot/collections/coronavirus-covid-19-scotlands-route-map/>

Autistic experience of COVID-19 legislation and guidelines Survey May-June 2020



Introduction

The aim of this survey was to create a 'snapshot' of autistic experiences in Scotland of the COVID-19 emergency legislation and guidelines, and of how autistic people have experienced the ways in which these have been communicated, implemented and policed during the lockdown situation.

The core questions in this survey were around communication and messaging regarding the law and guidelines, and direct experiences of being approached by police. Other additional questions have been asked to create some context for these experiences, for autistic people and families living in Scotland in 2020. Question 18, for example, asks for respondents to say whether or not they feel the human rights and needs of autistic people are recognised and understood within Scottish society generally ie pre-COVID19 as well as during the lockdown?

It is of course, important to recognise the limitations of this kind of survey, where respondents will be those most motivated to take part and who want to have their voices heard. On the other hand, these are lived experience reports and while one person's experience might not be exactly another's, it is understood in the context of qualitative research that if one person has an experience, it will almost certainly reflect the similar experiences of many. Qualitative research doesn't ask questions of 'how many?', it asks questions of 'who?', 'what?', 'how' and 'why?', helps us to identify needs, concerns, barriers, gaps in provision, and supports the creation of answers and solutions.

Common themes here include lack of clarity of messaging around the legislation and guidelines, with high anxiety around all the uncertainties; very high anxiety around the prospect of being approached by police and how the individual's (or their child's) autism may not be understood, accommodated or may even possibly cause serious issues. Other peoples' behaviour is another high concern and lack of clarity about how to respond when non-compliance is observed (or perceived). Anxieties and frustration around a general lack of understanding of autism and the needs of autistic people, within the police force, but also within society as a whole, have been expressed. These themes are all reflective of the ongoing feedback received from the wider autism community through eg the SWAN networks, our weekly Mental Health and Wellbeing webinars, the Scottish Government Improving Understanding of Autism Campaign Advisory Groups and the wider social media networks.

Most worryingly, perhaps, are the reports of too many in the autistic community being unable to access their right to exercise outdoors for mental health and physical wellbeing, through confusion around what is permissible and what isn't, through intimidation and judgement of others, and fears and anxieties around others' non-compliant behaviours. There are extremely highly elevated levels of anxiety for autistic people, who are prone to being anxious and of experiencing high levels of stress and exhaustion at the best of times, which this clearly isn't.

The section of the public, which will undoubtedly include some autistic people, that has been calling for more strict policing, may well be, as discussed at the IAG meetings, only considering the policing of others' behaviour and not their own, with lack of tolerance at play. A small number of reports from this survey complain of what was termed by one as 'heavy-handedness' by police while many more express dismay and anxiety at what is seen as lack of compliance and a call for more robust policing, so it does seem as if perhaps, as the saying goes, it's not possible to please all of the people... It may be, however, that many of those latter are making a plea for reassurance as much as anything else. In local areas, we have witnessed many incidences of non-compliance, some from people from out-with the area, some from within. A greater police visibility in local towns and villages might have been helpful - and still might be - to reduce high levels of non-compliance and to give assurance to the highly anxious, both autistic and non-autistic.



Only a few instances of police engagement were reported through this survey (6) but it does appear that there have been some occasions when police responses could have been more thoughtful and appropriate. However, as one respondent pointed out, any lack of awareness of autism, and its impact on individuals and families, in some of our police force, should be seen - not excused but contextualised - within a wider society where autistic people are often misunderstood, marginalised and discriminated against.

On the plus side, an example of good practice was given where police engaged positively with a young autistic man and his friend, and that's always helpful to hear too.

COVID19 has, as has been widely observed, served to highlight some of the inequalities and inequities embedded in our society. Many of these are stark: poverty is probably the greatest inequity we have, including poverty of housing, employment, ie unemployment and where people are working, employment conditions, opportunities, choices. Disabled people, including autistic people, are often those who are poor, unemployed, lacking in opportunities and with limited choices. Even those who are well resourced experience discrimination and judgement in our daily lives. Emerging are some of the more subtle ways in which some portions of our population - including autistic people - may be discriminated against or marginalised within this kind of crisis. Some common assumptions, for example, about capacity and ability which all autistic people, from those who have high support needs to those of us who 'don't look disabled', often experience on a daily basis, have been reported as exacerbating our challenges in this 'new normal'. Combined with the fears about what post-COVID might look like for our community, and each of us as individuals, that are common to autistic and non-autistic people alike at this time, is our heightened personal awareness of the ways in which our autism impacts and often disables or marginalises us.

Expressed by the respondents to this survey has been anxiety, fear, thoughtfulness, insight, humour too. This is not a homogenous population but one of complexity, variable circumstances, different personalities. Not all autistic people consider themselves as disabled, for example, but more to the point perhaps, many are reluctant, frightened even, to disclose their status in any setting, for a quite well-founded fear of prejudice, discrimination or targeting. There is pride too, and a reluctance to ask for special consideration.

One respondent wrote 'Don't make people hate us by going on about our special rights'. That must surely represent a sad indictment on our society, that internalisation of a common narrative of autism, one of deficit and burden, and for an autistic woman to believe that asserting her human rights would be to seek special privileges and would cause people to hate her.

Disabled people, including autistic people, often have less autonomy and greater degrees of dependency than others (along with other groups, such as single parents for example, or those in domestic abuse situations): dependency on carers, on family, dependency on expensive technology, yes, but also dependency on other people's awareness, discrimination, compassion, kindness. These are not always readily available, but when they are, they make all the difference in the world to those receiving them.

The survey is structured as 'sets' of main questions with supplementaries to elicit some of the more qualitative, experiential aspect of autistic peoples' perspectives from lockdown. Some of the responses have been laid out here as quantitative percentages and pie charts with key themes summarised and described through verbatim reporting. Numbers of respondents to each question is given.

Dr Catriona Stewart OBE

Organisational Development Lead
SWAN

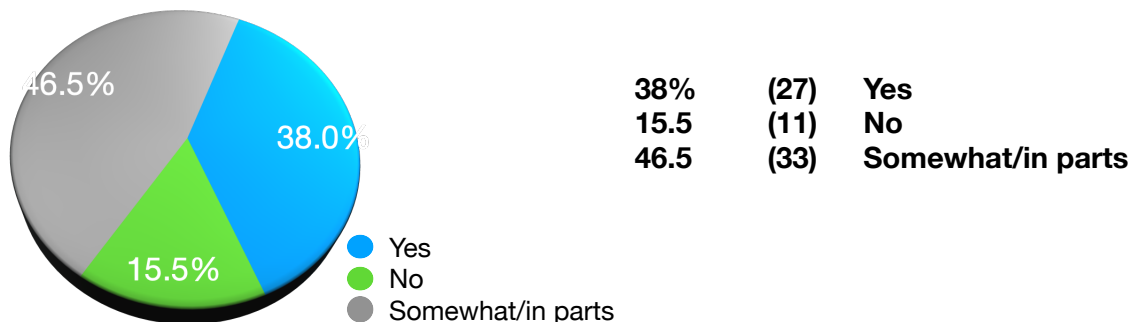


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The survey summary

Q1 Do you feel you understand the COVID-19 emergency legislation and the accompanying guidelines? eg do you understand the difference between them? respondent nos 71



Q2 Please describe in no more than 150 words what you feel would have helped you to have a better understanding of the COVID-19 emergency legislation and the guidelines? 57

There were a number of issues raised here, but not surprisingly many of them revolved around clarity of message. Some respondents felt they did understand the difference, some didn't and the majority felt they could have done with better, clearer guidance of what the differences were/are. What's especially concerning here are the reports of autistic people not taking opportunities to go outside, to exercise and for mental health and wellbeing because they were too overwhelmed by what appeared to be confusing messages.

"They keep changing too often. I find it confusing to know if they are for England or Scotland where I live. As I don't know what's for me I just stay at home and in my back garden".

"Initially stay at home was clear. But then it became a bit more confusing. Even now my son is frightened to go out incase the police ask him where he is going"

"Regarding walks. I had conflicting advice from professionals about whether I can drive 10 miles to one of my 'safe' walks. I haven't been for a walk yet. They dont know what to say and dont want to get in trouble".

This question asked respondents to make suggestions as to what would have helped. Different media for presentation of information was a common suggestion, including the use of visuals, pictures, diagrams, lists. The suggestion below regarding TV has been mentioned on other forums too. We've discussed on the IAG and elsewhere social inequalities that are being highlighted during this COVID-19 crisis including unequal access to the internet; the use of TV to disseminate messaging is an obvious route but appears to not have had the level of impact that might have been hoped for.

"I like no ambiguity, columns, colours, pictures and one website that I know gives this information. I have found the Scottish Government website difficult. Difficult to find information in one place, the writing has too much of the same text size and format. Basically, need graphs and colours"

"Short. Words. With. Diagrams".

"One of those lists with 2 colums - one legislation and the other advice"

"If my school had explained it more".

“More government announcements and information boards on TV. A dedicated TV channel would be good.

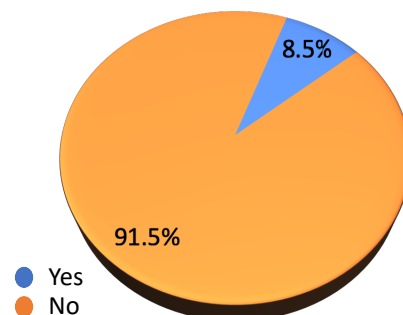
Dismay over the lack of consistency with how respondents perceived their own understanding of the guidelines versus other peoples’ has been a consistently common theme throughout.

“Clear guidelines that everyone was doing as some people are not following the rules”

Q3 - 10 Have you, or any of your family, e.g. a teenage child, had any direct experience/s of the policing in Scotland of the emergency COVID-19 legislation? By direct experience we mean that you or your child has been approached/stopped by the police.

71

8.5% (6) Yes
91.5% (65) No



Out of 71 respondents, 6 reported they - or a child - have had direct experience of police intervention.

It’s worth reporting on all six of these verbatim.

“9 year old autistic cycling on rural road”

“Went to the park, it was not in walking distance, it was a short 2 minute drive but we needed grass and water, we needed space and to run. We were told that we needed to remove ourselves and go home and shouldn't be away from our direct home area, even if we were autistic. It resulted in me shaking and crying, and going home”.

“My son was stopped and questioned about why he was out as it was later in the evening. He was asked to hurry along and get home again as quick as possible. It was more to do with the time he was out and the fact he was with a friend who he shares a house with.”

“Solicitor dealing with Police “

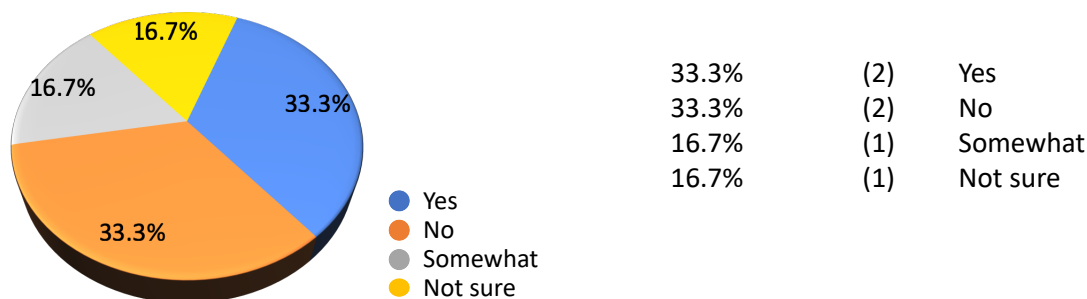
“I am a woman with Asperger's Syndrome, and I have an autistic son. On 13/05/20 I received a call from the police regarding my parking at a site by Glentress Forest. Because the road leading to the car park had been closed off I had decided to park by a gate where the previous day I had seen a car parked. This gate gives access to a private site which I assumed was closed due to the Covid restrictions just as the road was. Seeing as there had been a car there the day before I thought it was ok to park there to go for a walk with my son. I took a short walk and a few minutes later I got a call from the police saying that I had been reported because of my parking.”

“I was sitting on a bench in the local park taking a break in the middle of a walk, and was told by a police officer that I was not allowed to sit down, and had to get up and leave.”

The latter exchange took place in Queen’s Park, Glasgow, the solicitor described his interventions as taking place in a station and in public, the 9 year old boy was cycling on a Highland rural road (Caithness), Glentress is in the Borders and the park was in Paisley.

Respondents were evenly divided between whether they understood why they or their child was approached by the police, or didn’t or only partially or were unsure **6**





How respondents translated the incidents they reported was variable as were the events. Only 1 felt their child had been treated fairly and reasonably, the other 5 were either personally distressed or in the case of the solicitor, unhappy with the police behaviour.

People did feel they were being discriminated against.

The parent of the 9 year old describes their reaction as:

"I think he was stopped (he was alone, unaccompanied) in order to exert control and power. He was asked, 'is this the 1st time you've been out today?'. At least, that is what he told me when he returned home"

The parent of the older boy was more sanguine about the incident:

"I think they possibly thought it was two friends meeting up outside of their respective homes. It was 11pm at night so later for people being out and about, they were going to the local shop before it shut". and "He was warned not to go out and about late at night again, he was happy with that and wasn't overly upset by the experience".

Those stopped in parks were bemused and upset and felt they'd been discriminated against:

"We were together in the park playing? We kept our distance from others". "We were the centre of attention, everyone was looking at us, I was a mess of emotions and it wasn't nice".

"I have no idea if this was a law or not, if so very ableist as exercise is allowed but only if you don't need breaks?"

The incident in the Borders left the family upset and anxious:

"The officer reassured me from the start that as a local, I was entitled to go for a walk, but not to park there. The officer acknowledged the lack of parks in the area and I believed I explained it would have been impossible for me to reach the place without driving. I am an anxious insecure driver as it is and this did not help my driving at all. Also it made my son, who is very much aware of rules, even more wary of going out for exercise".

The solicitor's comments:

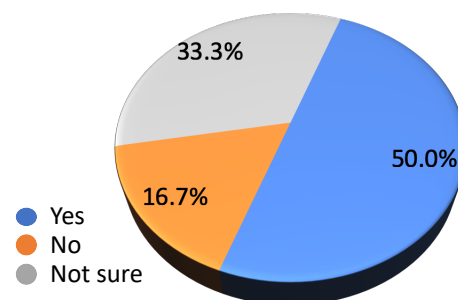
"Inconsistent approach , no fault of police who are policing unclear guidelines"

"Habeus Corpus. All Human Beings are essential. Government has no right to force police to to enforce this dystopian legislation. Walking down the street with your child should not be a Crime known to the land of Scotland".

From these incidents, only 1 of the respondents believed they had been treated fairly, 2 felt they definitely hadn't and the other 3 were not sure.

Q11 - 12 Did you feel you or your child were being discriminated against?

50.0%	(3)	Yes
16.7%	(1)	No
33.3%	(2)	Not sure

**Comments:**

"I'm autistic, I was supposed to be able to go places that calmed us, within social distancing"

"On this occasion I do not feel it was actually the police who we felt discriminated by, but the actual individual who reported us. Because autism is not acknowledged or understood by the locals, and because my son moves between my place and my ex partner's, I know the neighbours have commented on it in relation to the Covid-19 situation. That said, excluding weekly shopping, neither my ex-partner nor I or my son, have been in contact with anyone other than each other throughout the lockdown. I am foreign born and that does not sit well with the local community, and having no connection with the local residents and being a single mum of an autistic child makes me feel very vulnerable and isolated. I fear that the neighbours will use any excuse to target me and my son as I know they have done previously with other people who did not "belong"

"All human beings are essential . The Scottish Government has no moral right to enact legislation that interferes with the Liberty of its citizens they are acting ultra vires"

Q13 - 14 Did you feel your personal circumstances were considered and taken into account, for example that you might have a 'hidden' disability or health condition, or that your child might be autistic? 6

16.7%	(1)	Yes
66.7%	(4)	No
16.7%	(1)	Not sure

"My boy was frightened. I'm surprised he managed to talk and managed to get home after. He hasn't really gone cycling since. There is no way the police could possibly have known he was disabled. He certainly would not have said, 'hey, I'm autistic'. It makes no sense to stop and question a young child cycling on a rural road where there are no people, few houses, little traffic"

"I mentioned to the officer that my son has a disability but I cannot remember whether I specified that he is autistic. In my experience mentioning that I have Aspergers tends to have a negative effect, and rather than understanding that leads to more discrimination"

On the positive side, 1 respondent explained:

"The police my son described were patient, understanding and gave him the chance to finish what he was doing none of it was confrontational"

Q16 Please describe in no more than 150 words what would have helped to assure you the police were able to consider your personal circumstances or if you felt your circumstances were being considered, then please describe in what way did the police act that demonstrated this? 6

"don't know"

"N/a impossible for police to enforce rules for fascist dystopian and authoritarian regulations in a style of policing which is in any way acceptable"

“They would have stopped being loud, and let us be”

“Acknowledgement of the disability would have been helpful. Once again, I do not feel that the officer was being unfair at all on this occasion. On the contrary, I believe that he was very friendly in his handling of the call. This said, I am not certain that he was aware and able to understand my points in relation to autism”

“They showed me that they were not willing to consider my personal circumstances, or the disabled experiences more widely”

“My son didn’t feel the need to disclose his diagnosis as he felt he was being treated fairly. They hadn’t really considered the time apart from the shop maybe shutting so when the police spoke to him and were calm in explaining he was able to take that on board”

Q17 What are your main questions or concerns regarding the policing of the COVID-19 emergency legislation and implementation of the guidelines going forward over the next few months?

Responses to this question fell mostly into 5 broad categories, which are outlined below, each with a number of sub-categories

1 COVID - 19 legislation and guidelines: messaging to the public

This key category of respondent concerns fell broadly into the following areas:

- **need for clarification around the law and the guidelines, especially translation of the latter**
- **need for clarification on being able to travel to exercise and for mental health**
- **need for clarification and awareness raising for the wider public regarding specific guidelines for autistic and other disabled people**
- **concerns around discrimination**

selected verbatim reports:

“I worry that current guidance expresses a strong preference for autistic people having a care plan to allow deviation from exercise guidance. Many of us have no healthcare support at all”

“Why have disabled people not on super vulnerable list not been able to get deliveries from supermarkets”

“How can my volunteers and lay helpers who take me out for 'fresh air walks' can obtain a card that says they are outside of their home/driving their car away from their home address take an autistic person for a walk? They are not related to me or employed by an autism organisation.”

“Apart from the media how am I supposed to know what I can and can’t do?”

[my concern] “Being allowed out with a carer”

“i wasn't even sure how safe it was to go to hospital appointments and locations keep changing”

2 Policing

Anxiety at the prospect of being approached by police and and questions around:

- **how can they ensure they are easily identified as autistic without having to give a lot of explanation?**
- **what would the police say to them ?**

- would they or their child be able to speak under that level of stress?
- are all police officers well trained in understanding autism?
- experience of what is described as 'heavy handed'
- experience of feeling potentially discriminated against

selected verbatim reports:

"I am anxious about being questioned by the police if on my own and also not being believed that I am autistic"

"Do the police have guidelines if someone tells them they are autistic?"

"I was anxious on behalf of my son that he would be stopped as he wouldnt have been able to respond. Eventually we got a sunflower lanyard for him to wear . To help alert people to his communication difficulties"

"I'm worried about not being able to get words out to explain myself if I'm stopped for some reason"

"I'm very worried I accidentally break the rules because that would incredibly stressful."

"If they do need to approach me give me physical space, be patient & give me extra time to think (I'm 'processing', this takes time & energy!)"

"Usual concern that neither me or daughter "look" autistic, so police will not give us time to answer their questions, understand why we are flustered, or believe us"

"I'm visibly trans and was with my support worker who is also trans, was it transphobia? idk"

3 Lack of understanding of autism generally and lack of accommodations

- lack of facilities, lack of accommodations eg car-parking or toilets to enable disabled people accessing the more remote areas they were thought they had been told they could
- lack of awareness of autism in the general population

selected verbatim reports:

"Why has access for autistic people not been communicated better - I am constantly asked why I'm going out by others"

"I worry that marginalised groups are judged more harshly within society when deviating from guidelines or even when sticking to them"

"Why have disabled people not on super vulnerable list not been able to get deliveries from supermarkets"

"I am allowed to go places but can't get them as car parks are shut - why have no arrangements been put in place"

"How to contact them with urgent concerns if I can't use the phone."

4 Anxieties around other peoples' behaviours



- **observed non-compliance and the potential impact on the safety of the respondent or/and their families**
- **how to respond to perceived non-compliance in others**

selected verbatim reports:

“I'm scared to go out. People dont follow the rules, I'm trying my best but it's really hard”

“Being verbally attacked by members of the public. Eg one woman lectured me because she thought I was not leaving enough room (on an empty street) for other vehicles to park.”

“Enforce correct use of PPE when the public use them - especially gloves”

“Why are we being told not to meet up yet people are doing it all the time”

“If neighbours breaking it what do you do?”

5 Concerns around specific circumstances eg care support, travel etc

These are primarily for individuals with care support needs

selected verbatim reports:

“I worry that current guidance expresses a strong preference for autistic people having a care plan to allow deviation from exercise guidance. Many of us have no healthcare support at all”

“How can my volunteers and lay helpers who take me out for 'fresh air walks' can obtain a card that says they are outside of their home/driving their car away from their home address take an autistic person for a walk? They are not related to me or employed by an autism organisation.”

“Being allowed out with a carer”

“My son doesn't understand “social distancing”, explain it to him”

As an aside, there were one or two responses to this question that were difficult to translate or categorise. Autistic people are thought to have limited senses of humour; experience of working with autistic people shows this is most certainly not the case, we laugh a great deal when in each other's company. However, sometimes it can be hard to gauge, and certainly in the context of a written survey response, to know what is intended. One respondent wrote “I keep touching my face as a stim. I should get extra hand gel”.

Supplementary question “do you have any ideas or suggestions for the police in terms of addressing your question or concern?”

Respondents offered the following suggestions and requests. Most of these are pleas for higher levels of autism training and of baseline knowledge, and routes to accommodations for autistic people and their families.

“Be aware the impact of overload or meltdown lasts way beyond the period of obvious distress. Give clearer insight into when or why they stop someone who is obeying the rules”.

“Be slow, gentle and kind in your communication if you can. Please learn about sensory overload and recognise that autism can have an internal dimension that you dont see and that this is a scary new world we are trying to navigate and although we look strong, we need your help and support with feeling safe”.

“Could you have a local autism officer who could be an email contact of something. An outreach officer maybe. Some way of flagging vulnerability as done with domestic abuse”

“Car stickers or something that could quickly identify the person in the car has a hidden disability and may need to drive to a quieter location or may get very anxious or distressed if stopped by the police.

“Make it easier to report people who verbally attack you for no good reason so autistic people can feel safer about going out. Having a police liaison person for autistic people to email/text their concerns to who could pass information on to the police if appropriate or else advise them on what their right are and what they should do. I am often not sure how the police will respond to things, in the past they have made me feel stupid for things, even for example when I handed in £20 I found in the street which was the honest thing to do, they made me feel stupid for not keeping it. So now I feel like I shouldn't report minor things eg when someone scraped my car when it was parked legally in the street I didn't report it, I am still not sure whether I should have or not. Or when the woman in the street verbally attacked me for no reason I didn't report it, I don't know if the police would have done anything. I feel like I am just supposed to put up with things unless I am physically assaulted.”

“I want to highlight the fact that perhaps local police liaison should have a bigger role in making sure that autistic people such as myself and my son are not targeted unfairly by busy bodies who do not know or understand the nature of autism, and use it as an excuse to slander us, and possibly get us in trouble with a -potentially- less understanding officer”

“I would like the police to be more visible and apply the guidelines and laws, so that we can all be safer.”

“defund the police, they do more harm than good”

And finally, for this question, on an upbeat:

“No. They're doing ok from my perspective”

Q18 Do you believe that the human rights and needs of autistic people are recognised and understood within Scottish society generally ie pre-COVID19?

The answer to this question could possibly be summarised by the respondent who wrote “Lol no”.

Almost unanimously, respondents felt that even with some gathering improvement in awareness of autism, understanding and acceptance both have a long way to go. Stereotyping, in terms of autism and, intersectionally, of autism and gender, stigma, prejudice, discrimination, lack of awareness of relevant equalities legislation and lack of accommodations were all described as aspects of the autistic lived experience. There is recognition that things are slowly improving perhaps in society as a whole, but a general sense that we have a lot more to do, to create an understanding, genuinely inclusive society for all.

“No way to answer that in 150 words! Across the board I feel unseen, unsupported, misunderstood, dismissed, and discounted. Even by places and people who are supposed to be autism friendly. I'm under no illusion "society" would find it better if I just didn't exist”

“We always get some ignorant adults staring rudely at what may be seen as odd behaviour. ie. pacing in a queue, holding ears at a show/football match, flapping hands/arms when excited, my 33 year old son regularly kisses me when outside in the street (for reassurance) adults regularly stare rudely!”

“There needs to be much more understanding and much less judgement. Autistic boys become autistic men, but as autism is 'newer' in girls, it hasn't filtered through to awareness of autistic women yet. I think the scottish government is on the right path but it takes time”

“Overall I feel that my rights are met, however not in all areas. Employment and rights to reasonable adjustments are not always met. I work in care for autistic children, and have experienced directly and indirectly through stories by parents of basic human rights being unavailable, such as access to services and education.”

“We are consistently treated as non-entities - the fundamental assumption is that we have no capability or agency. This is entirely subconscious, but it's also constant. We are told that we are broken, and then treated that way. When it comes for consultation, autists are consulted last (if ever), and then mostly only a checklisting exercise. We are dehumanised constantly, by all agencies and most of our advocates. So no. Our 'human right's are not respected.”

“People don't often recognise or understand invisible disability. They pick and choose which parts they believe and form inaccurate assumptions about what you can and can't do”

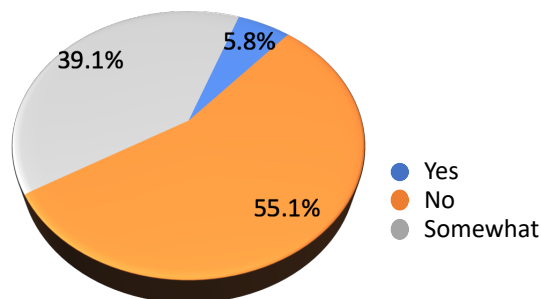
“I feel autistic people are treated as 'lesser'. I feel people don't care about our challenges in society ranging from healthcare needs, shopping needs, when someone approaches us and sensory needs.”

“People expect us to function as they do and it affects our human rights and ability to live in society. I don't feel good enough or cared about. I'm too 'high functioning' (label I hate) for people to see I need help and I appear too unaffected to be treated with support. I feel utterly left out, uncared for and feel like I'm treated as not having a disability. It affects my life everyday, and my interactions. Appearing so 'well adjusted' is a great barrier to receiving any support or care, and I'm sick of it. It affects my mental health everyday and I do believe my human rights aren't met as a result of how I am”

“Whenever I disclose my autism the response has been negative. I don't think people have any real idea what it is, or the array of ways it can manifest, and just take it to mean "socially inept idiot". Or "socially inept lovable genius" if I give my formal diagnosis of Asperger's, which is maybe close to accurate description of me, but in no way touches on the things that are actually disabling in my life!”

Q19 And within the current COVID-19 context? 69

5.8%	(4)	Yes
55.1%	(38)	No
39.1	(27)	Somewhat



The responses to this were perhaps surprisingly variable but again reflect feedback coming in from the autism networks which is that most autistic people are aware of themselves as belonging to a wider community; they are aware that the entire population is experiencing a form of collective trauma, not just the autistic one, and that also much depends on people's own lived contexts - how well resourced they may be, what levels of support needs they may have, family contexts eg, being at home with children, having elderly parents to care for, partners with or losing jobs, themselves having or losing employment and so on.

However, there is a picture emerging that the lack of awareness and understanding of autism that was prevalent pre-COVID is manifesting in the current situation in specific ways. The lack of awareness and accommodations many experienced in relation to aspects of life such as shopping, clarity of guidelines regarding exercise and care support, and so on, as described in the earlier questions, are highlighted here.

“When dealing with such an immediate and dangerous issue it is unrealistic to consider all minority groups individually. Police need training in autism but now is probably not the best time? The rules are clear stay at home”

“Our needs are different- I need my support in supermarkets but only one person is allowed in”

“Don’t make people hate us by going on about our special rights”

“I am sick of the positivity messages on the tv and online to help people cope. If i am not coping it is because it is really bad for me not to have routine! Every single normal day is an exercise in ‘pushing and being positive’. There is no recognition of how bad it can be if you feel you are suffocating. Not everyone can reach out for help. If i had had coping strategies for coping with the lockdown as an autistic person it would have been wonderful but i feel ‘dumped’.”

“My level of stress, as an autistic, is pretty extreme nowadays ... I am in a high level of fear at all times now.”

“no ones rights matter currently”

“I don't think people in general have any understanding of either the positives (like how lovely it's been having control over my home environment and the way I spend my time within it, or even how much less stressful being out is when people aren't coming distressingly close to me) or the negatives (like being trapped in my home while my neighbours renovate their entire flat, or the uncertainty of everything, or - worst of all - feeling so completely cut off from peace and nature, which is vital to my mental wellbeing). The medical profession certainly don't understand how inaccessible they've made healthcare”

“In addition to the above, I have been prevented from going in shops (single people only) when I need assistance. I can’t handle the atmosphere, the lack of rules. I have gone hungry and a result and felt so alone.”

“I feel so scared of the rules, and other people’s prying eyes. I don’t suffer domestic abuse (I used to), now it’s just emotional/verbal abuse. Due to this, I felt I had no where to escape due to the exceptional circumstances only outlining safety. Additionally, I could not see my partner (who is my emotional support person)”

“The rules don’t take into account people’s disabilities”

Q20 In no more than 250 words, what do you think needs to be done to improve recognition of the rights and needs of autistic people within Scottish Society? 54

Overall, the answers to this question were positive, and overwhelmingly the majority response was to seek training and education, the raising of levels of understanding across society in all areas. This wasn’t always just regarding autism, but disability generally and also a call for greater understanding and acceptance of ‘difference’ and awareness of the benefits and values brought to society where there is such. Public awareness campaigns were asked for and a number of respondents talked about the need for the lived experience narrative to be given greater space and credence; for autistic adults who are able, to be more visible, and for autistic people to ‘speak up for themselves more’.

More consistent and easily accessed diagnostic services, better adult autism services, overall, one stop shops, for example were cited as was understanding that some autistic people may not look disabled and may have great capabilities and talents but also need support and accommodations. More awareness of autism in females was also mentioned. One respondent suggested that ‘people shouldn’t be afraid to ask questions... should ask autistic adults what their needs are instead of either assuming or dismissing’.

Many conversations over the last few weeks have shown that autistic people are aware this COVID crisis has demonstrated that some of the accepted social ‘norms’ and presumptions around employment practices, for example, quite patently don’t work for all, and that new ways of doing things, some of which actually benefit autistic people, such as working from home, should be not just possible but actively encouraged going forwards.

“1. Acknowledge that for many of us, our autism isn’t immediately obvious to others.
2. Medically, we MUST be taken seriously. We do matter.
3. We can contribute to society but our ways can be different and in some ways limited when measured against the general population. In other words, I feel there must be differentiation and adaptations to accommodate us, and value whatever our contribution is, if that makes sense”.

“I don't know. I get the impression most people would rather I either kill myself or go through conversion therapy to be more like them. Perhaps if they understood the positives of autism more they'd stop begrudging the ridiculously minor accommodations needed for what they see as negatives? I wish they cared more... or at all, really. I like being around people, but it's so reliably traumatic I've given up trying.”

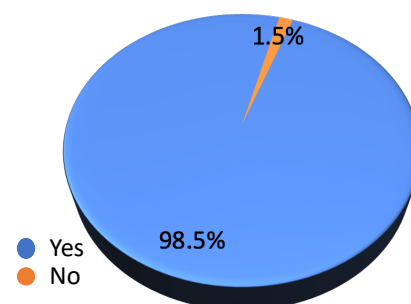
“We need people to care, fund and implement change in society. Ranging from healthcare inequalities, shopping hours (should still be a thing during COVID - I don’t look vulnerable, so I’d be challenged entering shops), gov needs to care, society needs to care and CHANGE. We need to stop living this high pressured life.”

“More visibility to public eg on tv. Autistic people visible in high profile roles. When autism discussed whether on tv, or in decion making capacity, always, always consult autistic people. Schools decide on best support for autistic kids without seeking advice of autistic adults who have been through educational process. Society needs reminded that autistic kids grow into autistic adults - workplaces have to be a lot more accessible, do all jobs really have to be filled by team workers and people oriented persons? Some jobs can be done alone, or from home?”

Some demographics

Q21 Are you or your child autistic, either formally diagnosed or self-identified? **67**

98.5%	(66)	Yes
1.5%	(1)	No



Q22 Please include the following information about yourself (you are able/willing to share with us).

This was broken down into:



<https://swanscotland.org>
swan.scotland@gmail.com
 SCIO: SCO46946

survey conducted for SWAN by
 Craigforth
<http://www.craigforth.co.uk>

Age 96.7% **58**

This ranged from 14 to 65 years with the majority (37) sitting within the ages of 30 - 50 and another 9 between the ages of 51 - 60

Ethnicity 95.0% **57**

All of these described themselves as being Scottish, British, white or caucasian (or 'British beige aka white' in one case)

Gender 100.00% **60**

5 described themselves as male, 1 as NB, 1 as AFAB and one as trans masculine. The other 52 described themselves as female, Fem or F; this is not surprising as the survey was distributed initially through the SWAN networks.

Disability 86.7% **52**

A couple of respondents would not describe themselves as disabled - "?" and "I am not disabled, I am autistic", but the majority described themselves as having one or more disabilities, including autism, ADHD with co-occurring health conditions for 8 respondents that included epilepsy, anxiety, Major Depressive Disorder, severe Joint Hypermobility, Chronic Fatigue

Other health conditions 66.7% **40**

These included: meunieres, EDS hypermobility, OCD, depression, anxiety, childhood trauma, pain, ME, Fibromyalgia, RA, thyroid, IBS, arthritis, panic attacks, auto-immune disorders.

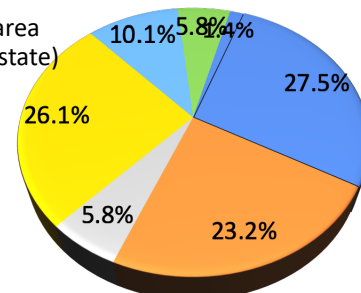
Geographical **64**

Respondents came from across Scotland, in a fairly even distribution: Aberdeenshire, Aberdeen city, Moray, Falkirk, Forth Valley, Lothian, Perth and Kinross, Dundee, Tayside/Angus, Fife, Midlothian, East Lothian, West Lothian, Edinburgh, Stirling, Glasgow, East Dunbartonshire, Renfrewshire, East Renfrewshire, East Ayrshire, south Ayrshire, Dumfries and Galloway, Argyll and Bute, Scottish Borders.

Type of geographical setting **69**

city or large town centre	19	27.5%
other part of city or large town	16	23.2%
housing estate	4	5.8%
smaller town	18	26.1%
village	7	10.1%
remote rural area	4	5.8%
other: housing association created neighbourhood	1	1.4%

- City or large town centre
- Other part of a city or large town
- Housing estate
- Smaller town
- Village
- Remote rural area
- Other (please state)



GDA Advice on interactions with disabled people (Temporary Police Powers under Coronavirus Act)

Disabled people's human rights

Human rights do not cease to apply in times of crisis: they become more important. Human rights oblige Governments to take 'all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters'¹. However, research- including GDA's own recent and ongoing member engagement with over 3500 disabled people- shows that disabled people, (including people with long-term health conditions, sensory impairments, learning disabilities, HIV and cancer for example, and autistic people), have fewer resources to support themselves through an emergency situation. This includes disabled people of all ages living in care homes as well as those living in the community. According to research we are also disproportionately affected, under-considered and under-served by official responses in times of emergency².

Too often people treat us as second-class citizens, even as a burden on society. Even before the COVID-19 pandemic, the support services necessary for us to fulfil our human rights and make our full contributions to society were often lacking. This pandemic has shone a spotlight on the lack of resources in the NHS and the long-term chronic underfunding of the social care sector³, as demands on both have suddenly and massively increased.⁴

The Coronavirus Act has further compounded challenges for disabled people by creating confusion about our access to public services and supports- particularly in relation to health, social care and community based services.

We have experienced increased authoritarianism by the police and the general welfare state since austerity measures, and hate crime against disabled people is rising. GDA contributed to the UK Government inquiry into online abuse⁵ and as a Third Party Reporting Centre, we hear directly from our members about the abuse they experience⁶. Despite being further removed from society due to shielding, self-imposed isolation due to being "high risk" or particularly vulnerable to

¹ Article 11 UNCRPD

² <https://ncd.gov/publications/2006/Aug072006>

³ <http://www.sdsscotland.org.uk/wp-content/uploads/2016/07/Shared-Ambition-for-social-care-final.pdf>

⁴ First 2 paragraphs extrapolated from Scottish Independent Living Coalition (SILC) Statement - <http://gda.scot/our-community/news/2020/4/21/scottish-independent-living-coalition-a-statement> calling for immediate actions to mitigate threats to life and health faced by disabled people under COVID19. (SILC is a coalition of the key strategic Disabled People's Organisations in Scotland working to share lived experience, priorities and solutions for change with policy makers, service planners and decision makers)

⁵ <https://publications.parliament.uk/pa/cm201719/cmselect/cmcompetitions/759/759.pdf>

⁶ <https://www.dailyrecord.co.uk/news/scottish-news/scots-mum-attacked-told-disabled-21631337>

infection, and due to lockdown itself, disabled people have still been victims of abuse, bullying and hate crimes in person⁷ and online⁸.

Gathering the views of disabled people

During the first 3 months of Lockdown, Glasgow Disability Alliance contacted more than 4500 disabled people; spoke to over 3500; completed Survey Monkeys for just over 2000 and set up emergency responses to meet needs around wellbeing, social connections (online or on phone) food, medication and digital exclusion. Our member wellbeing check-ins established a number of key themes including interactions with Police in the early days of Lockdown. Our 3 month report is imminent and builds on a Report produced at 5 weeks into Lockdown.⁹

Following member engagement which uncovered the issue and to create opportunities for sharing experiences, creating dialogue and establishing priorities and recommendations, GDA brought together a group of disabled people, some of whom had experienced being 'moved on' or challenged by Police Officers since lockdown, and others who had experiences of being challenged by members of the public.

GDA's online meeting explored barriers faced by disabled people when travelling around their communities, potential areas of concern in terms of new police powers in relation to the Coronavirus Act and suggested solutions for resolving these issues. These notes also include information and ideas gathered via conversations with disabled people unable to attend the meeting.

GDA has seen and fully supports the statement provided by Scottish Women's Autistic Network, so we will seek to not overly duplicate the points and suggestions made by SWAN.

Barriers and experiences faced by disabled people

- Disabled people generally do not wish to be labelled as 'vulnerable' as this has negative connotations of passivity and lack of autonomy.
- Visually impaired people cannot easily (or at all) see information signs, social cues, or indeed observe social distancing with others. Also they experience lack of depth perception which makes distancing hard. "I'm really nervous about going out because of physical distancing- I'm scared I bump into people and they get aggressive. This has happened a few times" (Lots of examples on social media, e.g. @BlondeHistorian on Twitter.)
- Pain cannot be seen. People may be resting because of pain and/or fatigue, or to prevent pain/fatigue or to pace themselves. One disabled woman described feeling intimidated when approached by Police as she and her partner were resting on a bench as she was experiencing pain and fatigue.
- Disabled people already face discriminatory application of legislation e.g. breach of the peace can occur if someone is made to feel uncomfortable, "Sometimes it's simply because of my

⁷ <https://www.independent.co.uk/news/uk/crime/coronavirus-blind-woman-coughing-hate-crime-police-wiltshire-a9450241.html>

⁸ <https://www.independent.co.uk/news/uk/crime/coronavirus-update-scam-uk-thieves-shopping-elderly-robbers-action-fraud-a9408731.html>

⁹ <http://gda.scot/our-community/news/2020/4/28/covid-19-supercharges-existing-inequalities-faced-by-glasgows-150-000-disabled-people>

existence that I cause offense". Disabled people worry that they will be perceived as offensive by not conforming to ideologies or standards of "normal".

- Some disabled people e.g. those with mental health difficulties or autistic people often get extremely stressed out and agitated by lots of questions, thus their behaviour may be misinterpreted.
- Disabled people are more likely to experience domestic abuse, including violence and sexual abuse¹⁰. There are concerns and fears that disabled people fleeing or taking respite from abusive and/or violent situations may be returned to their homes if deemed to be outside without a valid reason.
- Some disabled people feel there are elements of ageism in responses at the moment – e.g. a young disabled person more likely to be targeted if resting than an older person. Older people more likely to be believed when/if challenged, and experience more flexibility /understanding "They assume because I'm young that I must be fit- but my health is so bad I likely won't make it to old age".
- One person said they are regularly stopped by the police and this experience is compounded by police officers refusing to believe they are a disabled person. They feel this is due to multiple discrimination – they are young, their appearance of tattoos, 'punk' clothes, and also homophobia based on likely perception that they are LGBT.
- Disabled people generally do not carry documents around with them that 'proves' their disabled status. Many disabled people do not have a formal diagnosis so struggle with being believed in everyday life. Therefore disabled people, particularly those with hidden impairments are particularly concerned at how police will determine who is genuinely disabled.
- Disabled people may use walking in itself as 'exercise' rather than for the purpose of travelling to/from a permitted location. Taking rest breaks during exercise should be permissible.
- One person recounted a recent experience: They (a wheelchair user) and a friend (ambulant disabled person) were sitting resting during a walk in the local park. Police approached to ask why they were out. They were friendly to start with but their attitude changed very quickly when they replied they were out "for exercise and mental health". Police said they had to keep moving – they complied, but didn't understand, as they hadn't heard this 'rule' before. Autistic people often feel confused if rules suddenly change - being told 'everyone needs to keep moving' was a different rule. They kept walking, and at the top of a hill, naturally stopped for a rest, and almost immediately the police came over to tell them they had to keep moving. Their friend ended up in tears and now won't go back to the park despite living opposite it.

In response to this experience being shared at the meeting, another person with Autism said "I have autism and one of my things is to be completely informed of every fact. When I'm right I know I'm right so if they had introduced this new rule about keeping moving to me I'd have been confused and upset. I would likely have argued and got myself into trouble- I'd have been trying to process this new fact which I've never heard because I WANT to know all the rules and follow them. It upsets me when others don't follow the rules but this would have been new and I worry that I'd have gotten myself into trouble or arrested for being cheeky!"

- Many disabled people are already fearful and have a heightened sense of anxiety when out and about – exacerbated during Covid. Disabled women and LGBTQIA+ disabled people in

¹⁰ <https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/disability/bulletins/disabilityandcrimeuk/2019>

particular may have experienced violence when out in public. Participants described the terror of suddenly being approached by “a large, uniformed presence”, usually male, Police Officers when out walking or resting if on a bench, taking them by surprise, and putting them in a ‘fight or flight’ mode.

- There are key issues around communication and those who communicate differently, and Police Officers may encounter someone who communicates completely differently to expectations:
 - Autistic people may have different ways to communicate, including behaviours – non-verbal, heightened sensitivity to light, touch, sound, smells, etc.
 - Some people use AAC, communication cards, Makaton, BSL, etc.
 - Certain medications or impairment related flare-ups may make someone seem a bit ‘out of it’, slur speech, make them dizzy, non-verbal, brain fog, etc. making it more likely a stranger jumps to conclusions about them.
 - People have different levels of cognitive ability, either due to impairment, but also medications, or even situational.

Solutions for better outcomes when engaging with disabled people

COVID is exacerbating existing inequalities¹¹ and Police Scotland could make this situation worse for disabled people. However, action can be easily taken to mitigate and prevent discrimination when enforcing new and existing legislation and supporting the implementation of related guidance.

The group developed suggestions that would make the experience of policing lockdown and social distancing measures more effective for Police Officers and less traumatic for disabled people. Some of these solutions apply specifically to the current Covid situation, but we suggest the majority of these should be considered in ongoing training and development across all levels of Police Scotland. For brevity, these are listed as bullet points. We are happy to expand and provide further information and support if helpful.

- ✓ **Remember the context: COVID is only 6 months old and information and guidance has evolved and changed regularly making the situation confusing for the public.** This is compounded by variations in guidance across the UK nations and Republic of Ireland – all of which are being reported in national media, often with no clarification as to where these apply.
- ✓ **Contextualise Policing in terms of public health in the widest sense rather than simply compliance or enforcement.** We appreciate there might be a significant culture shift since Police are responsible for implementing legislation rather than Public Health outcomes.
- ✓ **Demonstrate Leadership and enable empowerment of individual officers** to support effective Policing during this unprecedented time. This will involve focusing internally on culture as well as external relationships with the public.
- ✓ **Exercise proportionality and discretion in dealing with disabled people, not a demand for proof.** Police Officers may have some knowledge of specific impairments, but this is unlikely to extend to all conditions and impairments. It is also not possible to make assumptions about impact and how individuals are affected. They should approach someone

¹¹ http://gda.scot/content/publications/GDAs-Covid-Resilience-Interim-report-27April_alt-text.pdf

from a position of genuine inquiry to establish the facts rather than demanding a diagnosis or proof of impairment from a disabled person.

- ✓ **Be aware of the potential to misinterpret a situation as combative if a person presents as forceful about their point of view.** They might have difficulty processing information, use alternative methods of communication, be experiencing mental health issues, they may be autistic, or any combination of all of these. They might be extremely fatigued or in pain and be telling the truth that they cannot move on from a bench or seat. The person may regularly experience not being believed about their condition and/or they may regularly be bullied or victimised due to having a hidden impairment. In summary – understand that non-disabled people cannot be the assumed default model for behaviour and interactions with ALL people.
- ✓ **Create specific guidance and instructions for Police Officers on how to respond to non-verbal communication:** this would equip Police Officers to feel more confident in dealing with such interactions.
- ✓ **Avoid defaulting to “Common Sense” approaches as these often validate a default to prejudice or unconscious bias** – specific approaches are required when working with disabled people, backed up by training and support for Officers.
- ✓ **Be aware of intersectional issues and the impact on disabled people of experiencing multiple discrimination:** disabled people can be of any age, any ethnic group, of any religion or none, and may also identify as LGBTQIA+. A disabled person may not have their usual support network to help them cope with homophobia within the family home, so may need to travel further, or more often from home to feel safe or need to meet others for peer support and respite from challenging household situations. Training around Intersectionality and Human Rights should be embedded in all staff training.
- ✓ **Enable Police Officers to have closer links with social work, community services and third sector organisations** so they can get advice and support as well as feel more confident signposting those in need to sources of support. Officers should be aware that many mainstream support services are not accessible to disabled people, so a more creative and multi-agency approach may be required.
- ✓ **Deliver Disability Equality Training (DET)¹²** to all Police Officers and all front facing staff should learn basic BSL (ideally) or receive training in using Contact Scotland video relay service.
- ✓ **Involve disabled people in co-designing solutions, plans and actions to improve Policing so that it better meet the needs of all citizens.** Work with Disabled People-Led Organisations such as Glasgow Disability Alliance and other members of Scottish Independent Living Coalition¹³

¹² Disability Equality Training courses are designed and delivered by the people who have directly experienced discrimination i.e. qualified disabled trainers who experience disability as a form of social oppression and therefore truly understand the reality of living in a disabling society.

¹³ GDA is a member of SILC which also includes Glasgow Centre for Inclusive Living, Lothian Coalition for Inclusive Living, Inclusion Scotland, Disability Equality Scotland, Self Directed Support Scotland, VOX Scotland and People First Scotland



Data report on Police Use of Fixed Penalty Notices under the Coronavirus Regulations in Scotland

Professor Susan McVie OBE FRSE
School of Law, University of Edinburgh

19th August 2020

Acknowledgements

This report has been produced to support the deliberations of the Independent Advisory Group (IAG) on Police Use of Temporary Powers related to the Coronavirus Crisis established by the Scottish Police Authority in April 2020. Access to data and evidence has been a vital element of the work of the IAG, and thanks are extended to members of Police Scotland's Operation Talla Information Collation, Assurance and Liaison (OptICAL) Group, led by ACC Gary Ritchie, for their assistance in providing data and offering expert advice to support the work of the IAG. Thanks are also extended to members of the IAG, chaired by John Scott QC, for their comments on earlier drafts of this report and insights from their own areas of work that have improved the focus of data analysis. The production of reports and briefing papers for the IAG has been facilitated by the Scottish Police Authority secretariat, so thanks are also extended to them for their diligence and unfailing support. The development of this, and other, reports for the IAG has also been supported by members of the Understanding Inequalities project and the Scottish Centre for Administrative Data Research, both based at the University of Edinburgh. While this report has been developed to support the scrutiny role of the IAG, the views expressed do not necessarily reflect the views of IAG members, and all opinions, interpretations of the data and errors are the responsibility of the author.

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EXECUTIVE SUMMARY

Background

- This report provides analysis of the Fixed Penalty Notices (FPNs) issued by Police Scotland under the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020 which were approved by the Scottish Parliament on 27th March 2020.
- The Regulations introduced temporary policing powers which enabled police officers to issue a FPN to anyone age 16 or over or, in extreme circumstances, arrest them for non-compliance with the Regulations.
- The Chief Constable of Scotland has consistently stated that police officers will only use enforcement to deal with those who blatantly disregard the Regulations and accompanying government guidance.
- The data analysed in this report includes all FPN tickets issued between 27th March and 31st May, which covers the initial phase of the lockdown in Scotland.
- The report focuses on the nature and circumstances of the FPNs issued and the aggregate demographic profile of all recipients, but does not include analysis of individuals or details of repeat offending, which will be the subject of a later report.
- The data and evidence presented in this report will be used to support the IAG in its scrutiny of policing during the pandemic in Scotland.

Number and nature of Fixed Penalty Notices

- Between 27th March and 31st May 2020, 4,328 FPN tickets were issued in Scotland.
- There was a sharp rise in the use of FPNs in the first two weeks after the Regulations came into being, peaking around 10-12th April, and then a gradual decline punctuated by spikes in enforcement activity.
- By the end of the initial lockdown phase, there was very little use of FPNs in Scotland.
- The reduced pattern of activity reflects the Chief Constable's public messaging around minimal use of enforcement, but is also likely to reflect changes in the focus of operational policing as lockdown eased and business gradually returned to normal.
- The vast majority of FPN tickets issued were for the value of £60, which suggests that repeat breaches of the Regulations were relatively rare.

Demographic profile of Fixed Penalty Notice recipients

- FPNs were more than three times as likely to be issued to a man as a women, although the age profile of FPNs involving male and female offenders was very similar.
- Most FPNs were issued to younger people, with a peak age of 18 for men and 19 for women, and the likelihood of receiving an FPN declined gradually with age.
- Comparing FPNs against stop and search encounters showed that the age profile of those involved was virtually identical, but the proportion of FPNs involving women was larger than that for searches.
- More than nine out of ten FPNs were issued to people who were recorded as White, with Asian being the most common ethnic group amongst those who were recorded as BAME.
- FPNs were more likely to involve people from BAME backgrounds than stop and search encounters, which was largely a result of more FPNs involving Asian people.
- Most FPNs were issued to people who were born in Scotland, but non-British nationals were slightly over-represented compared to the general population.

- Although a sizeable minority of FPNs involved people born in other countries, a very small number of FPNs were issued to people who were not resident in Scotland.
- It is not possible to draw any strong conclusions about disproportionality in policing practice based on the demographic profile of FPN recipients; and caution should be taken before making any inferences based on the comparison with stop and search data.

Criminal history of Fixed Penalty Notice recipients

- The majority of FPNs were issued to people who already had at least one record on Police Scotland's criminal history system.
- The average age of first contact with the police amongst FPN recipients was 19.3 years, although it was higher for women than men.
- The older a person was at the time of receiving a FPN, the older they were at the time of their first contact with the police on average.
- It was not possible to analyse data on the number of prior police contacts or when FPN recipients had most recently come to the attention of the police.

Timing and locus of Fixed Penalty Notices

- There were marked spikes in the use of FPNs at particular times, which coincided mainly with weekends, holidays and periods of good weather.
- FPNs were more likely to be issued for breaches to the Regulations that occurred in public places (such as visiting tourist hot spots) than those that involved indoor activity (such as house parties).
- Patterns of activity suggest that the factors that led to increases and decreases in police use of FPNs over time were as likely to influence breaches of the Regulations in public places as those occurring indoors.
- FPNs issued for incidents occurring in public places peaked in the afternoon, whereas incidents occurring indoors peaked late at night and in the early morning.

Geographical profile of Fixed Penalty Notices issued

- Most FPNs were issued in the West of Scotland, with far fewer in the East and North; and, even taking population size into account, there was greater use of FPNs in the West.
- Greater Glasgow Division had issued the largest number of FPNs overall; however, when population size was taken into consideration, Argyll and West Dunbartonshire Division had the highest rate of activity (which mainly reflected visits to tourist hot spots).
- A substantial minority of FPNs were issued to people in one Division when they were resident in another one, which indicated considerable cross-border travel.
- Argyll and West Dunbartonshire Division issued the highest proportion of FPNs to people who were resident in another Division, followed closely by Edinburgh.
- Comparing the 'offence-based rate' with the 'offender-based rate' showed that some Divisions dealt with a greater degree of cross-border travel compared to others.
- In Argyll and West Dunbartonshire Division in particular, the offence-based rate of FPNs was higher than all other Divisions, but the offender-based rate was on a par with Greater Glasgow and Renfrewshire and Inverclyde.
- People living in the North of Scotland were rarely issued with FPNs in other Divisions; while those living in Eastern Divisions who received an FPN in another Division were most likely to have travelled to another Eastern Division.

- The highest proportion of cross-border travel within a Division involved people from the Lothians and Scottish Borders being issued with FPNs in Edinburgh.
- People living in the West of Scotland were most likely overall to have received a FPN in a Division they did not live in.
- Argyll and West Dunbartonshire had dealt with the greatest degree of cross-border FPNs involving people from the West; however, it was also high in Renfrewshire and Inverclyde, Ayrshire, Greater Glasgow and Forth Valley.
- Temporal patterns across Divisions showed no clear pattern or consistency which suggests that the issue of FPNs was unlikely to be driven by 'macro-level factors', and most likely to be driven by local factors and challenges faced by officers in their areas.
- There was also substantial variability in the proportion of FPNs that were issued in public places or indoors by Division, with Fife issuing the highest proportion of FPNs for indoor related Regulatory breaches and Tayside issuing the lowest proportion.

Deprivation profile of Fixed Penalty Notice recipients

- There was a strong and significant relationship between the use of enforcement and the level of deprivation relating to the home addresses of FPN recipients.
- The likelihood of being issued with FPN was twelve times higher for those living in the 10% most deprived parts of Scotland compared to those in the 10% least deprived areas.
- FPNs were more likely to be issued to women living in the most deprived communities than men living in similar areas.
- People of all ages from deprived communities were more likely to be issued with a FPN; but it was highest for those in middle age than for younger people or those in the oldest age groups.
- FPNs were more likely to be issued to White people and those from African, Black or Caribbean backgrounds living in the most deprived communities than those of Asian or any other ethnic backgrounds.
- There was no significant difference in the deprivation profile of White people compared to those from African, Black or Caribbean backgrounds; although, the disparity between those in the most and least deprived communities being issued with an FPN was higher for people from African, Black and Caribbean origins than for White people.

Comparison of Fixed Penalty Notices issued in Scotland to England and Wales

- According to a recent report, the rate of FPNs in England was 3 per 10,000 people and the rate in Wales was 6 per 10,000 people.
- Based on the data used for this report, the equivalent figure for Scotland is 7.8 per 10,000 people; however, this is based on the number of FPNs *issued* whereas the figures for England and Wales are based on the number of FPNs *processed for payment*.
- It is, therefore, not possible to accurately compare the rate of enforcement based on FPNs in Scotland with England or Wales.

1. Introduction

This report provides the first detailed analysis of Police Scotland's use of Fixed Penalty Notices (FPNs) during the initial lockdown phase of the Coronavirus pandemic. The data used in this report were provided by the Operation Talla Information Collation, Assurance and Liaison (OpTICAL) Group within Police Scotland in support of the work of the Independent Advisory Group on Police Use of Temporary Powers related to the Coronavirus Crisis (hereafter referred to as the IAG), established by the Scottish Police Authority in April 2020. The report provides information on all FPNs that were issued in Scotland over the period from 27th March to 31st May. The data and evidence presented here will be used to support the IAG in its scrutiny role around the policing of the pandemic in Scotland.¹

This report forms part of a series of papers that have been commissioned by the IAG and presented to the SPA Board.² An earlier paper offered a detailed analysis of all policing activity in relation to the use of the temporary powers, using data from the Coronavirus Information (CVI) System established by Police Scotland.³ To our knowledge, the CVI System is the only database of its kind to be used to measure the overall use of extended policing powers across the UK police forces since the start of the pandemic. Using the CVI data, it was possible to show that only around six percent of all policing activity during the early months of the lockdown in Scotland involved use of FPNs. This report provides a more detailed analysis of the FPNs issued by Police Scotland, including where and when they were issued, an aggregate demographic profile of those who received them, the geographic and socio-economic distribution of FPNs, and the impact of cross-jurisdictional travel. The report also includes a tentative comparison of Scotland with police forces in England and Wales, although there are differences in the data which prevent a direct comparison.⁴

The work of the IAG in reviewing data and evidence is ongoing, and so this report offers only a partial picture of the enforcement activity of Police Scotland in response to the pandemic. The timeframe of this report is restricted to the initial lockdown phase, and does not discuss ongoing use of the FPNs during phases 1, 2 and 3. In addition, this report does not include a detailed analysis of the individual people who received FPNs or the profile of those who were in receipt of more than one ticket. And it does not include information on those people who were arrested for breaching the Coronavirus Regulations during lockdown. These topics will be included in further reports to the SPA Board in September and October 2020.

¹ For further details of the IAG and its terms of reference, see <https://www.spa.police.uk/strategy-performance/independent-advisory-group-coronavirus-powers/>

² Papers presented to SPA Board meetings detailing the work of the IAG so far can be found on the Authority website: <https://www.spa.police.uk/meetings/authority-meetings/30-june-2020/> and <https://www.spa.police.uk/meetings/authority-meetings/19-august-2020/>

³ McVie, Morales and Pantoja (2020) Interim report on data for the Independent Advisory Group on Police Use of Temporary Powers related to the Coronavirus Crisis. <https://www.understanding-inequalities.ac.uk/police-use-of-new-covid-19-powers-admin-data-analysis>

⁴ Published data from England and Wales includes only those FPNs that were processed; however, the Scottish data published in this report includes all FPNs that were issued, including some that were never processed, either because they were issued in error or rescinded.

2. Background

Under the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020 (hereafter referred to as the Regulations), Police Scotland was given extraordinary temporary powers in an effort to reduce the spread of Covid-19 and help save lives. The Regulations, which came into effect on 27th March 2020, gave police officers the power to enforce social distancing measures amongst the public and businesses in line with strict public health guidance. People were asked to work from home where possible and only to leave their homes if they had a ‘reasonable excuse’ or to exercise within their local area. The powers gave police officers the ability to close businesses, direct people to return home, forcibly take people to a medical facility and disperse groups of three or more people from different households, whether congregating in a public or a private area. They were also able to take steps to ensure that parents prevented their children from breaching the Regulations. Separate Regulations were introduced for England, Wales and Northern Ireland. While these were very similar at the start of the lockdown period, amendments to the Regulations became increasingly varied as lockdown progressed and as different parts of the UK began to ease restrictions at different times.

In the event that individuals did not comply with or adhere to the Coronavirus Regulations and were considered to have committed an offence, Police Scotland was granted the authority issue a Fixed Penalty Notice (FPN) to anyone age 16 or over⁵ or, in extreme circumstances, to arrest them. From the beginning, the public messaging from Police Scotland placed an emphasis on policing by consent and stressed the importance of personal responsibility in supporting the collective effort to reduce the spread of the virus. On 27th March, the Chief Constable expressed an expectation that the public would ‘do their duty and contribute to the national effort to keep people safe from the spread of coronavirus’.⁶ He recognised that the Regulations placed unprecedented restrictions on public movement and freedom of association and that this would be a significant challenge to individuals and families, but emphasised that ‘those who persistently and blatantly defy the law must know we will enforce the law’.

On 3rd April, the Chief Constable thanked the public for their ‘overwhelming support and co-operation’ during the first week of the new Regulations and noted that the majority of people were complying with the guidelines.⁷ However, he reported that enforcement had been used against individuals who had ‘no intention of adhering to the Regulations’, such as engaging in large social gatherings and house parties. Recognising that policing in Scotland gained its legitimacy and authority from the consent of the public, he reiterated that ‘we will always encourage compliance but, as a last resort, we will use the enforcement powers which are in place’. At the same time, guidance was issued to officers in the use of the ‘4Es’ strategy. It was stressed that officers should use engagement, explanation and encouragement as much as possible and, only when absolutely necessary and after sufficient warnings, resort to enforcement.

An Independent Advisory Group (IAG) was established on 9th April to provide scrutiny of Police Scotland’s use of the temporary powers in Scotland. Data were made available to the IAG from the Coronavirus Intervention (CVI) System, a bespoke database established by Police Scotland so that police officers could record all use of the powers (including dispersals, FPNs and arrests). Using data from the

⁵ In Scotland, an amendment to the Regulations was passed on 20th May 2020, increasing the minimum age at which an FPN could be issued to 18, on the basis that the original wording was incompatible with the definition of a child under Scots Law and the UNCRC.

⁶ Police Scotland News Release, 27th March 2020: <https://www.scotland.police.uk/whats-happening/news/2020/march/social-distancing-enforcement-measures-in-place>

⁷ Police Scotland News Release, 3rd April 2020: <https://www.scotland.police.uk/whats-happening/news/2020/april/public-thanked-for-support-during-first-week-of-new-regulations>

CVI system, an interim report was published on 30th June on behalf of the IAG which highlighted that only six percent of all activity recorded in relation to the use of the temporary powers in Scotland had involved use of a FPN and less than 1% had involved an arrest.⁸ The report confirmed that, in the vast majority of incidents, police were using the first three Es, mainly in the use of dispersal after engagement and explanation, but sometimes requiring use of encouragement.

The purpose of this second data report is to examine in more detail Police Scotland's use of enforcement. Specifically, it examines the pattern and profile of all incidents in which a FPN was issued in relation to the Regulations between 27th March and 31st May 2020, which covers the initial lockdown period in Scotland. The CVI System was not suitable for collecting detailed information on FPNs and, as there was no existing information system in place to collate this information electronically, a bespoke dataset was created by Police Scotland's OptICAL Group. This involved taking the details from each paper FPN ticket and entering it manually into a spreadsheet. As much information as possible was included about the personal characteristics of the people who had received FPNs, which sometimes involved contacting police officers or matching records of known offenders against other Police Scotland datasets.

Data cleaning and consistency checks have been conducted to ensure that the FPN database is as accurate as possible. Nevertheless, it is possible that there is some degree of error in the data. It should be noted that this report is based on all FPN tickets issued, including those that were rescinded at a later date or were not processed for another reason.

3. Number of Fixed Penalty Notices issued

Between 27th March and 31st May 2020, 4,328 FPN tickets were issued under the Coronavirus Regulations in Scotland. This is a small number in absolute terms (for example, the police recorded around 30,000 incidents over the same time period) and it means that less than 0.1% of the total Scottish population were issued with an FPN. To a large extent, this reflects the overwhelmingly high levels of compliance with the Regulations observed amongst members of the population during the initial phase of lockdown.⁹ However, it also reflects Police Scotland's policy of moving to enforcement only when all other options had been exhausted.

The number of FPN tickets that were issued is higher than the number recorded on the Coronavirus Intervention (CVI) system over the same period (n=3,163). This is a discrepancy of 1,165 (or 26.9% of the total). Figure 1 shows the difference in the daily number of FPNs recorded by the ticketing system to that entered on the CVI system. The discrepancy between the systems appears to be biggest on days where there was a lot of activity, and so may reflect non-recording of enforcement activity by officers during busy periods. In addition, there may have been some non-recording on the CVI system of tickets that officers knew had been issued in error or rescinded. Since the FPN dataset analysed for this report involved analysis of actual tickets, it represents a more accurate measure of the total amount of enforcement activity. Nevertheless, the two trend lines show a similar pattern over time, which suggests that the CVI System provides an accurate picture of the overall fluctuation in activity. In other words, the under-recording on the CVI system does not give any indication of systematic bias over time.

⁸ McVie, Morales and Pantoja (2020) Interim report on data for the Independent Advisory Group on Police Use of Temporary Powers related to the Coronavirus Crisis. <https://www.understanding-inequalities.ac.uk/police-use-of-new-covid-19-powers-admin-data-analysis>

⁹ See, for example, the results of the Scottish Police Authority public surveys: <https://www.spa.police.uk/news/survey-of-public-views-on-policing-of-covid-19-published/>

Figure 1 shows a sharply rising trend in the use of FPNs during the first two weeks of the Regulations coming into force. The use of enforcement peaked around the 10-12th April before declining gradually to the end of May. There were some spikes in enforcement activity around the end of April and early May, which coincide with bank holidays and some exceptionally good weather in Scotland, as well as some changes in messaging around the restrictions of movement during lockdown. However, it is clear that, after the first two weeks of policing activity, there was a gradually diminishing reliance on enforcement amongst police officers in Scotland. By the end of the initial lockdown phase, there was virtually no use of FPNs in relation to breaches of the Coronavirus Regulations at all. While this pattern of activity reflects the Chief Constable’s public messaging around the use of enforcement only in extreme circumstances, it is also likely to be due to changes in the focus of operational policing as lockdown eased and business gradually returned to normal.

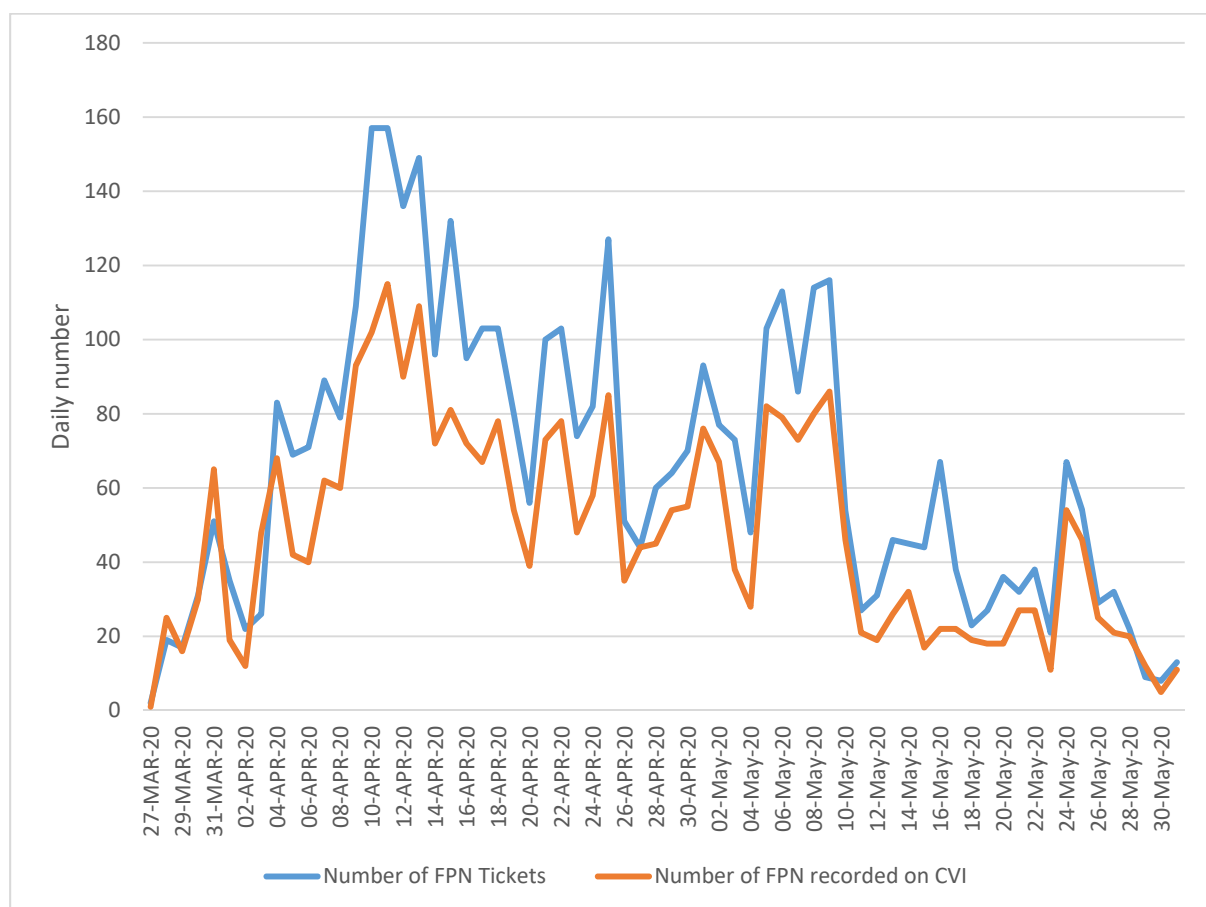


Figure 1: Comparison of daily number of FPNs recorded on ticketing and CVI systems, 27TH March to 31st May 2020

4. Value of Fixed Penalty Notices issued

The value of the FPN in Scotland was fixed at £60 (with a reduction to £30 if paid within 28 days). Under the Regulations, up to five FPNs could be issued, with the value doubling each time to a maximum of £960. Figure 2 shows the distribution of FPNs issued according to the value of the ticket recorded by the issuing officer. The majority of FPNs issued during this period were recorded as being for the lowest ticket amount of £60.¹⁰ The remaining FPNs were for values between £120 and £480, although only

¹⁰ There were 11 FPN cases with missing information on the amount of the ticket issued.

2.5% of all tickets were for £240 or more. There were no recorded cases involving a ticket with a value of £960.

Despite there being an incremental system of FPN issue, some individuals were issued with more than one £60 ticket. According to Police Scotland, it is likely that in some instances officers may have issued a £60 ticket rather than a £120 as they were unaware that the individual had already been issued with a FPN. In other instances, the recording of two £60 tickets may reflect the fact that the initial FPN was rescinded or issued in error and, therefore, not processed. There were also a few anomalies in the dataset relating to the amount of the FPN issued for repeat offenders. As we are more interested in the fact that a FPN was issued rather than the amount, this is not discussed further in this report.

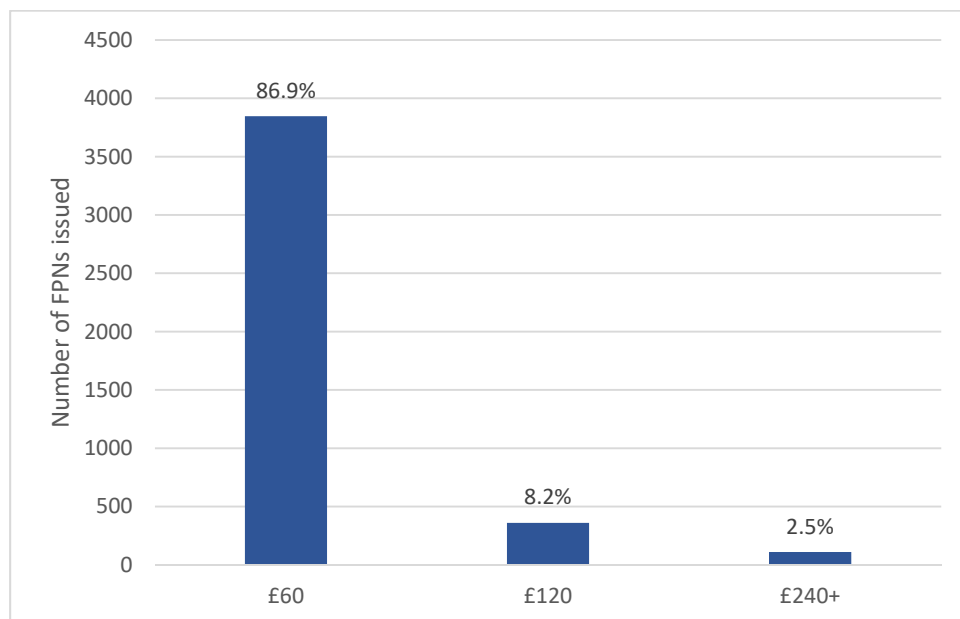


Figure 2: Distribution of FPNs issued by value in Scotland, 27th March to 31st May 2020 (n=4,317)

5. Demographic profile of Fixed Penalty Notice recipients

This section of the report examines the aggregate demographic profile of all FPN recipients.¹¹ This provides an indication of which groups within the population were at greater risk of failing to comply with the Coronavirus Regulations even after police had applied the first three Es (engagement, explanation and encouragement). Looking just at the FPN data, it is not possible to draw any strong conclusions about disproportionality in policing practice. To do this would require robust data about the demographic profile of all those who failed to comply with the lockdown Regulations, not just those who were subject to enforcement, but such data do not exist. In an effort to provide some context for this report, comparisons have been made with data on stop and search. These data are publically available and allow us to make comparisons of two groups within the population that have experienced policing, which is preferable to making comparisons to the general public. Nevertheless, it is acknowledged that the circumstances and use of suspicion in stop and search activity would be very different to the circumstances in which officers issued FPNs during the pandemic, so comparisons based

¹¹ It is important to distinguish between the aggregate profile of FPN recipients (in which the same individual can be counted multiple times) and the individual profile of all people who received one or more FPNs (in which the same individual is counted only once). Comparison to the demographic profile of the population is only truly accurate when compared with the individual profile of those who received FPNs, which is not the case here.

on the age, sex and ethnicity of all those who were stopped and searched during April and May 2019 are indicative only.¹²

5.1 Age and sex of FPN recipients

Of all FPNs issued during lockdown, 77.5% involved a male recipient and 22.5% a female recipient.¹³ Figure 3 shows the age and sex profile of all FPNs. It clearly demonstrates that FPNs were disproportionately issued to younger people, with a peak age of 18 for men and 19 for women.¹⁴ A fifth (20.4%) of all FPNs were issued to people aged under 21, which accounts for only 6.5% of the population; while more than half (53.6%) were issued to people aged 30 or under, which accounts for 22.7% of the population. Although the total number of FPNs issued to women was much smaller than for men, the overall age profile was similar. This suggests that age was a more critical factor in determining police use of enforcement than sex.

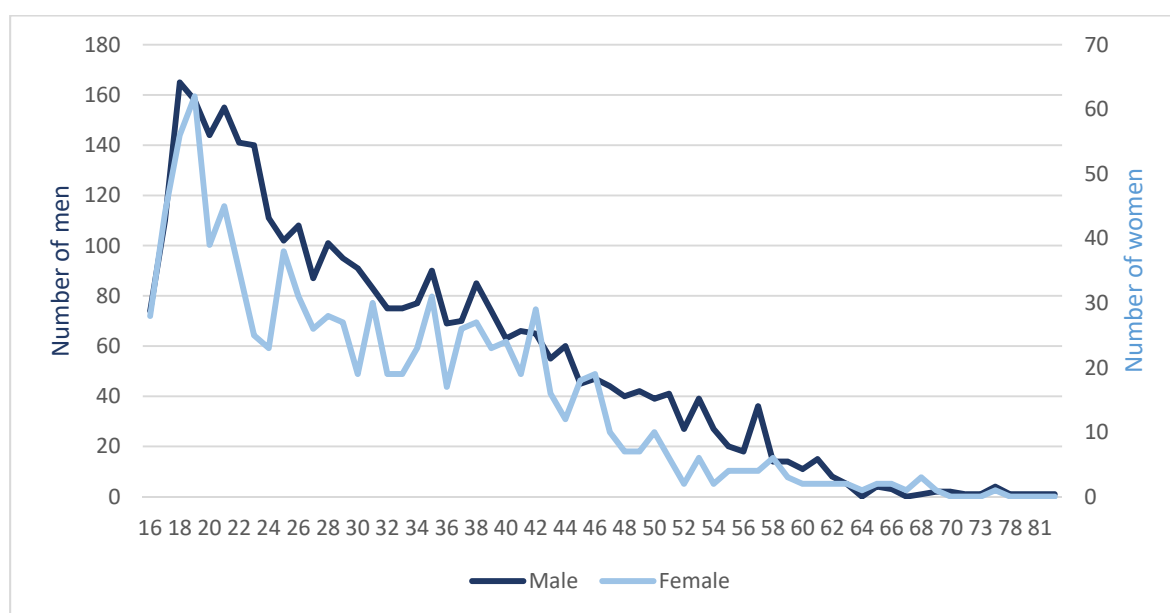


Figure 3: Number of FPNs issued by age in Scotland, 27th March to 31st May 2020 (n=4,325)

It is worth re-iterating here that the absolute number of people who were subject to enforcement during lockdown was very small (less than 0.1% of the total Scottish population). So even though there was disproportionately in the age and sex profile of those who received FPNs, the number of people involved at any age represented a very small proportion of the overall population. This is consistent with general reports about widespread public compliance with the Regulations, especially during the initial phase of the lockdown in Scotland. Nevertheless, research found that levels of compliance were

¹² Stop and search data from the Police Scotland website were analysed for April and May 2019, to retain seasonal consistency but to avoid any differences that may have been introduced due to the pandemic.

¹³ There were 11 FPN cases with missing data on sex of the offender.

¹⁴ There were 3 FPN cases with missing data on age of the offender.

lower amongst people under the age of 30, especially as lockdown progressed, which may help to explain the age profile of FPNs issued in Scotland.¹⁵

Comparison was made with the age and sex profile of those who were stopped and searched by Police Scotland during April and May in 2019 (n=7,998).¹⁶ Only 15.1% of all police searches involved women, which was significantly lower than the proportion of FPNs involving women. However, the age profile of searches and FPNs was virtually identical as shown in Figure 4. The age profile by sex for searches was slightly different to that shown in Figure 3 for the FPNs (the profile of searches for women between the age of 20 and 40 was flatter); nevertheless, it demonstrated the same overall pattern with a large over-representation of policing amongst younger people.

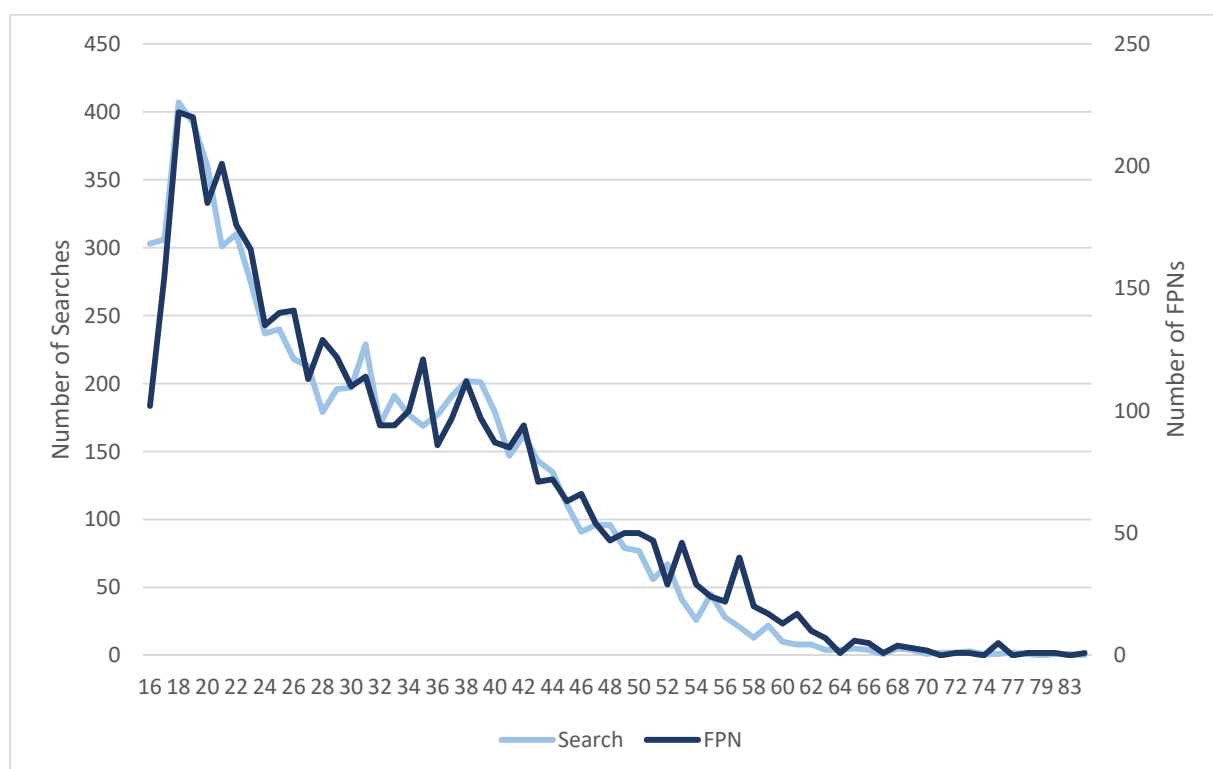


Figure 4: Number of FPNs by age in Scotland, 27th March to 31st May 2020 and Number of stop searches by age in Scotland, 1st April to 31st May 2019

5.2 Ethnicity of FPN recipients

Where ethnic group was recorded, the vast majority (92.5%) of FPNs were issued to people who were recorded as being White.¹⁷ Of the remaining tickets, 4.4% were issued to those from an Asian background, 1.7% each were issued to people from African, Black or Caribbean backgrounds, and the remaining 1.4% were from multiple, mixed or other ethnic groups. The most recent population estimates suggest that 94.3% of the Scottish population is White, which suggests there was a slightly higher than expected number of FPNs issued to people from non-White backgrounds. Again, it is worth

¹⁵ Fancourt, D., Bu, F., Mak, H.W. and Steptoe, A. (2020) Covid-19 Social Study. Results Release 9. Nuffield Foundation. <https://mk0nuffieldfounpg9ee.kinstacdn.com/wp-content/uploads/2020/04/COVID-19-social-study-results-release-20-May-2020.pdf>

¹⁶ There were no Stop and Search cases with missing data on sex, but 454 cases with missing data on age.

¹⁷ There were 69 FPN cases with missing information on ethnicity.

stressing that the number of people from BAME backgrounds who were subject to enforcement was very small (around 0.1% of the total BAME population in Scotland). Therefore, these disparities between groups reflect very small absolute differences.

Comparison was made to the ethnic profile of those who were stopped and searched during the equivalent period in 2019.¹⁸ Figure 5 shows that the vast majority (95.4%) of searches in Scotland also involved someone from a White background. While this represents a very small difference in percentage terms, the proportion of searches involving White people was significantly higher than for FPNs. The main ethnic difference between FPNs and searches was in relation to the Asian population, which accounted for 4.4% of all FPNs compared to 1.8% of all searches. There was no difference in relation to any of the other ethnic groups.

These findings indicate that the ethnic profile of those people who were ticketed for flouting the Coronavirus Regulations was broadly similar to the population who are typically stopped and searched, although there were some differences in relation to the Asian population. Analysis of the age profile of those who were issued with an FPN from the Asian community found that they were significantly younger than those from White backgrounds (28.6 compared to 31.8 years, respectively), which may have explained the slightly higher than expected level of police contact. However, the same difference was found in the stop and search data, so it does not appear that age was the only factor driving this difference in relation to the issue of FPNs.

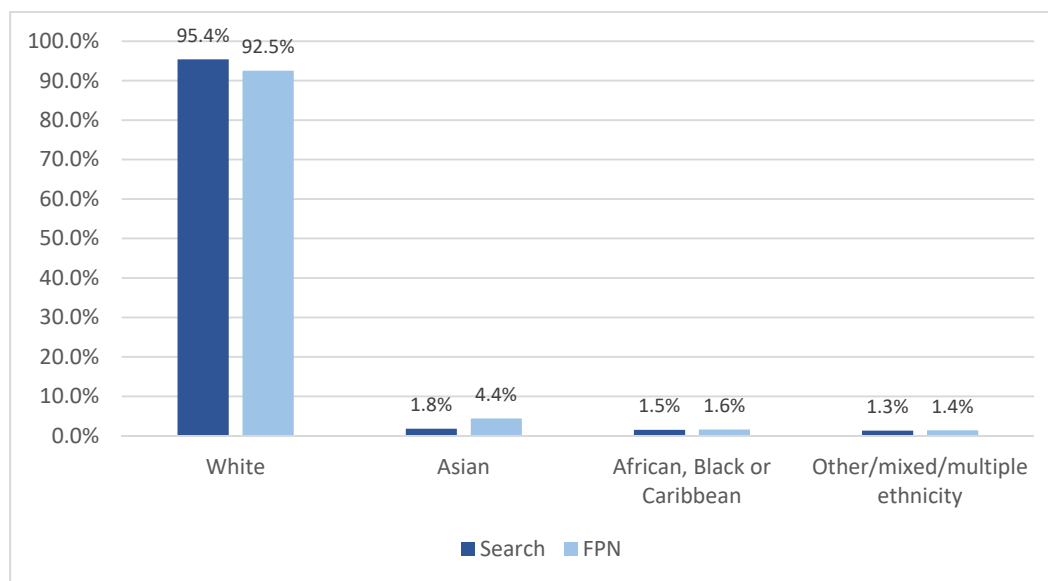


Figure 5: Ethnic profile of FPNs (27th March to 31st May 2020) and stop searches (1st April to 31st May 2019) in Scotland

As noted earlier, police use of stop and search is a very different activity to issuing FPNs for non-adherence to the Regulations; therefore, it is important to be cautious about drawing any conclusions from these comparison data. Overall, they do suggest that there are strong similarities in the general profile of those who are stopped and searched and those who were issued with FPNs during the initial stages of lockdown; however, much more information would be required to fully understand whether there was any disproportionality in policing during the pandemic.

¹⁸ There were 150 Stop and Search cases with missing information on ethnicity.

5.3 Country of birth of FPN recipients

Where country of birth was recorded, three quarters (84.7%) of FPNs were issued to someone born in Scotland and a further 5.6% were issued to someone born in another part of the British Isles (mainly England).¹⁹ This means that 9.7% of FPNs were issued to a non-British national, which compares with 7.2% of the population.²⁰ Most of the remaining encounters when an FPN was issued (4.7%) involved people born in Eastern Europe (primarily Poland), while 3.9% were born in Africa or Asia. Compared to the non-British population of Scotland, there was a slight over-representation of people born in the EU2 countries (Bulgaria and Romania) and Asia; however, absolute numbers were very small and this comparison does not take account of the fact that individuals may have been counted more than once in the FPN data.

Despite the fact that 15.3% of all FPNs were issued to people who were not born in Scotland, in 98.8% of all cases the individual's home address was in Scotland.²¹ Indeed, only 59 FPNs in total were issued to people who did not have a Scottish home address. So, there is little evidence that enforcement was driven to any extent by cross-border offending during lockdown, at least in terms of those who were issued with an FPN. Country of birth is not published in the stop and search data, so no comparison could be made on this characteristic.

6. Criminal history of Fixed Penalty Notice recipients

Interviews with police officers conducted by HMICS found that, while most people were adhering to the Regulations and public guidance issued during lockdown, a very small proportion of the population had created a disproportionate amount of concern from a policing point of view.²² 'Officers interviewed said challenges emerged with some members of the public who were living chaotic lifestyles and seemed intent on non-compliance, regardless of attempts to utilise all strands of the 4 Es approach. On these occasions, this appeared to be due to an indifferent attitude to the overall public health objectives, the legislation and consequences for breaching same, therefore enforcement was not seen as an effective deterrent' (Para 21).

Where possible, Police Scotland extracted data from the criminal history system and manually added this to the FPN ticket database. This meant it was possible to examine what proportion of tickets were issued to those who had already been known to the police at some point and how old these individuals were when they first came to the attention of the police.²³ Less than one in five (18.0%) FPNs were issued to someone who was not known to the police prior to 2020. In the majority of instances where a ticket was issued, therefore, it involved a person who had already come to the attention of Police Scotland at some time in the past. Figure 6 shows that 18.3% of people had first come to the attention of the police within the last five years; however, two thirds of FPNs were issued to people who first came to the attention of the police 6 years ago or more. It is particularly noticeable that almost a quarter (24.5%) of all FPNs were issued to an offender who was first known to the police over 20 years ago. Unfortunately, it was not possible to examine the frequency with which individuals had had police

¹⁹ There were 480 FPN cases with missing information on country of birth.

²⁰ National Records of Scotland (2020) Population by Country of Birth and Nationality, 2019.

<https://www.nrscotland.gov.uk/files//statistics/population-estimates/pop-cob-nat-19/pop-cob-nat-19-report.pdf>

²¹ There were no FPN cases with missing information on country of residence.

²² HMICS (2020) Independent Advisory Group Report on Interviews with Police Scotland Officers and Staff.

<https://www.hmics.scot/news/independent-advisory-group-report-interviews-police-scotland-officers-and-staff>

²³ There were 1,133 cases (26.2%) where information on prior police history was not recorded.

contact over the years or their most recent contact prior to the issue of the FPN for non-adherence with the Regulations.

The average age of first police contact amongst all FPN recipients was 19.3 years; although it was higher for women (21.6 years) than for men (18.6 years). Further analysis was conducted to explore the relationship between the age of men and women who had been issued with an FPN for breaching the Regulations and how old they were when they first had contact with the police. . Figure 7 shows that the younger a person was at the time of being issued an FPN, the younger they were likely to have been when they first had police contact. This was true for both men and women. Interestingly, those who were aged over 60 when issued with an FPN were likely to have been much older on average when they first came to the attention of the police, especially women. However, numbers are too small to support more detailed analysis.

Overall, these findings show that in the majority of cases where an FPN was issued it involved someone who had already been known at least once to the police in the past. Most people (especially men) were likely to have been first known to the police under the age of 20; however, the older the person was who had breached the Coronavirus Regulations, the older they were likely to have been at first police contact. Without further information on the details of people’s individual police record, it is impossible to draw conclusions about how this may have impacted on people’s behaviour during lockdown or whether the police were acting in a fair and proportionate way towards these individuals.

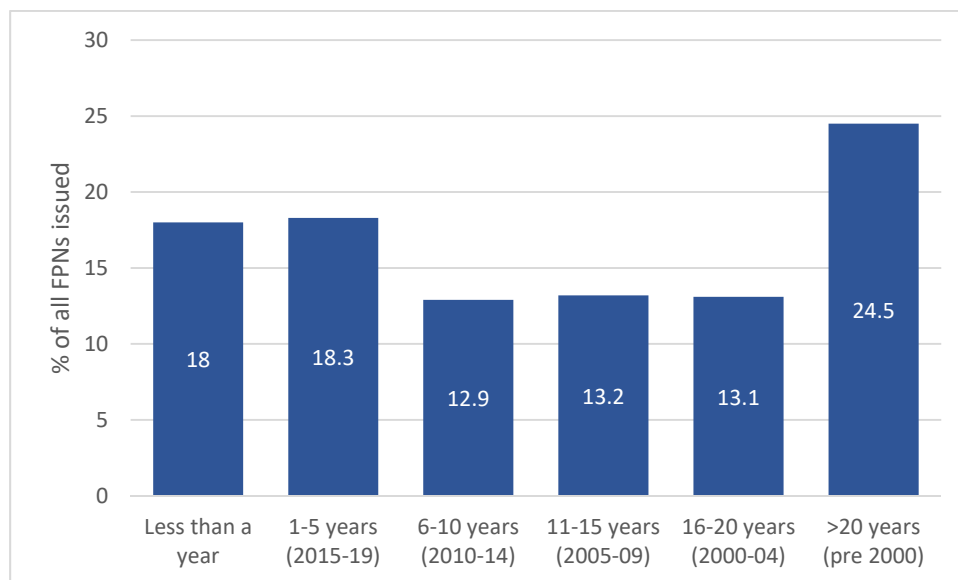


Figure 6: Police history of offenders for all FPNs issued in Scotland, 27th March to 31st May 2020 (n=3,192)

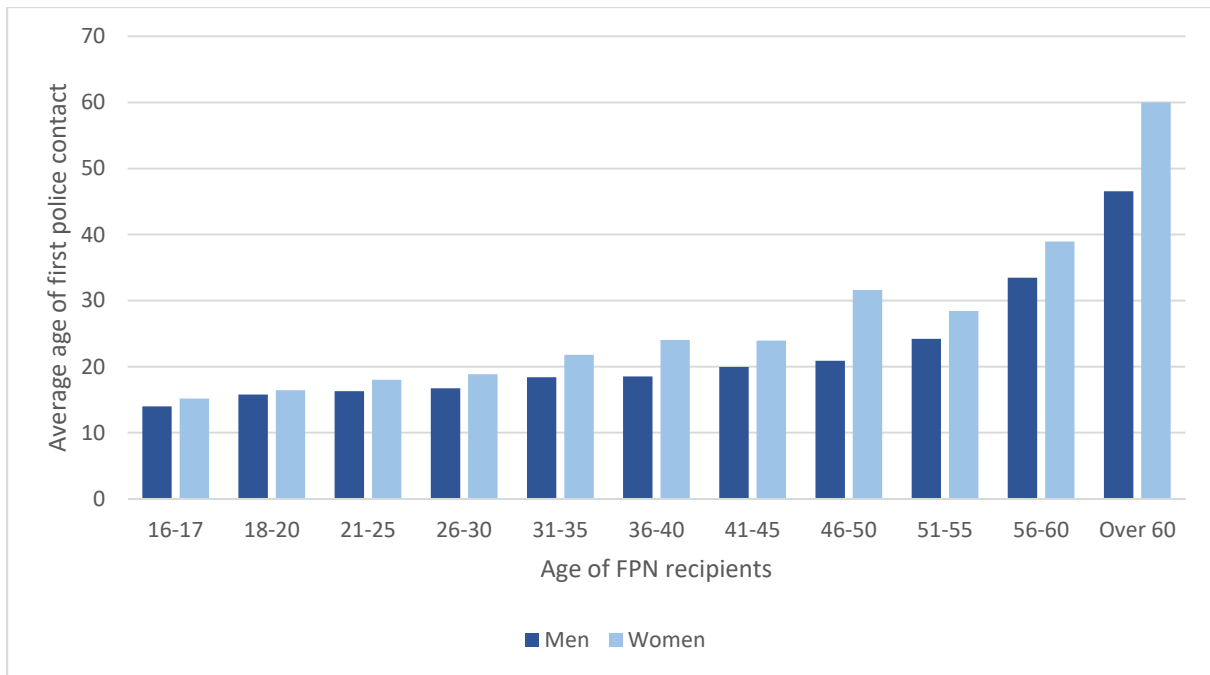


Figure 7: Average age of first police contact by age and sex of all FPN recipients in Scotland, 27th March to 31st May 2020 (n=3,190)

7. Timing and locus of Fixed Penalty Notices issued

As noted in Section 3, the number of FPNs issued grew sharply over the first two weeks following the introduction of the Coronavirus Regulations, peaking around 10-12th April, before declining gradually. There were some marked spikes in activity, which coincided mainly with weekends, holidays and periods of good weather; but the general pattern was one of decline for the remainder of the initial lockdown phase. Over the period from 27th March to 31st April, 70.3% of all FPNs were issued as a result of breaches to the Regulations that occurred in public places (e.g. lack of social distancing in public areas and parks or unnecessary travel to beaches and beauty spots), while the rest involved breaching the Regulations through indoor activity (e.g. social gatherings of multiple households or parties in people's houses).²⁴

Figure 8 shows the overall pattern of FPNs issued by locus to the end of April. Generally speaking, the patterns were fairly similar, with spikes in activity as a result of breaches in public places being mirrored by spikes in activity indoors (the pattern for indoors shows more fluctuation as the numbers are smaller). This suggests that – although the locus was different – the drivers underpinning the increase in policing activity were likely to be the same. During the first week of the powers coming into being, only around a fifth of the FPNs issued were a result of breaches of the Regulations that occurred indoors. However, this increased to around a third of all FPNs in the second week and remained fairly stable over time. Again, this suggests that the factors that led to increases and decreases in police use of FPNs over time were as likely to influence breaches of the Regulations in public places as those occurring indoors.

²⁴ There were 159 (5.8%) FPN cases with missing information about the locus of the incident between 27th March and 30th April. There were 1,195 (75.3%) FPN cases with missing information about the locus between 1st and 31st May, therefore data on the locus of FPNS for this period cannot reliably be presented in this report.

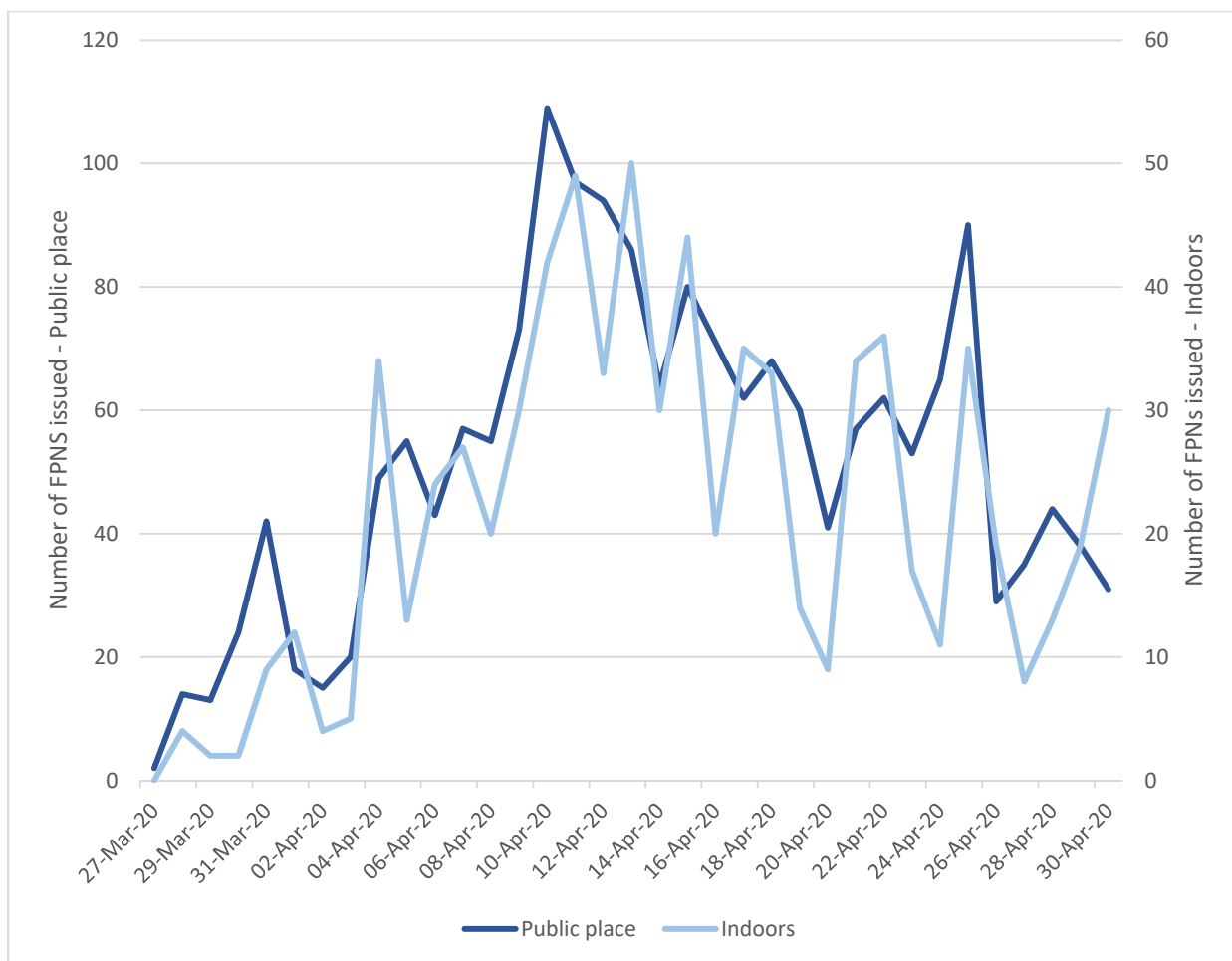


Figure 8: Number of FPNs issued in Scotland by locus type, 27th March to 30th April (n=2,583)

There was considerable variation in the times of the day when police enforcement was used, although activity showed a pattern which would be fairly typical of incident-related policing activity more generally (i.e. most activity in the evening and early morning, with far less activity during late morning and early afternoon). Figure 9 shows the proportion of all FPNs issued for incidents occurring indoors or outdoors by time of day.²⁵ The pattern was fairly similar for FPNs issued in both types of locus from midnight to noon; however, there was considerable divergence after that. FPNs issued for breaches of the Regulations occurring in public places rose steeply in the early afternoon, peaking around 5pm, and then declining again. Whereas FPNs issued for breaches occurring indoors rose more steadily through the early afternoon, then increased sharply from around 4pm and peaked between 11pm and midnight. Clearly, although the drivers of non-compliance may have been similar, the pattern in terms of policing demand and use of enforcement differed substantially depending on where incidents took place and the type of circumstances in which they occurred.

²⁵ Note that this analysis includes all FPN cases where locus was recorded (n=2,974 or 68.7% of the total) for the period from 27th March to 31st May.

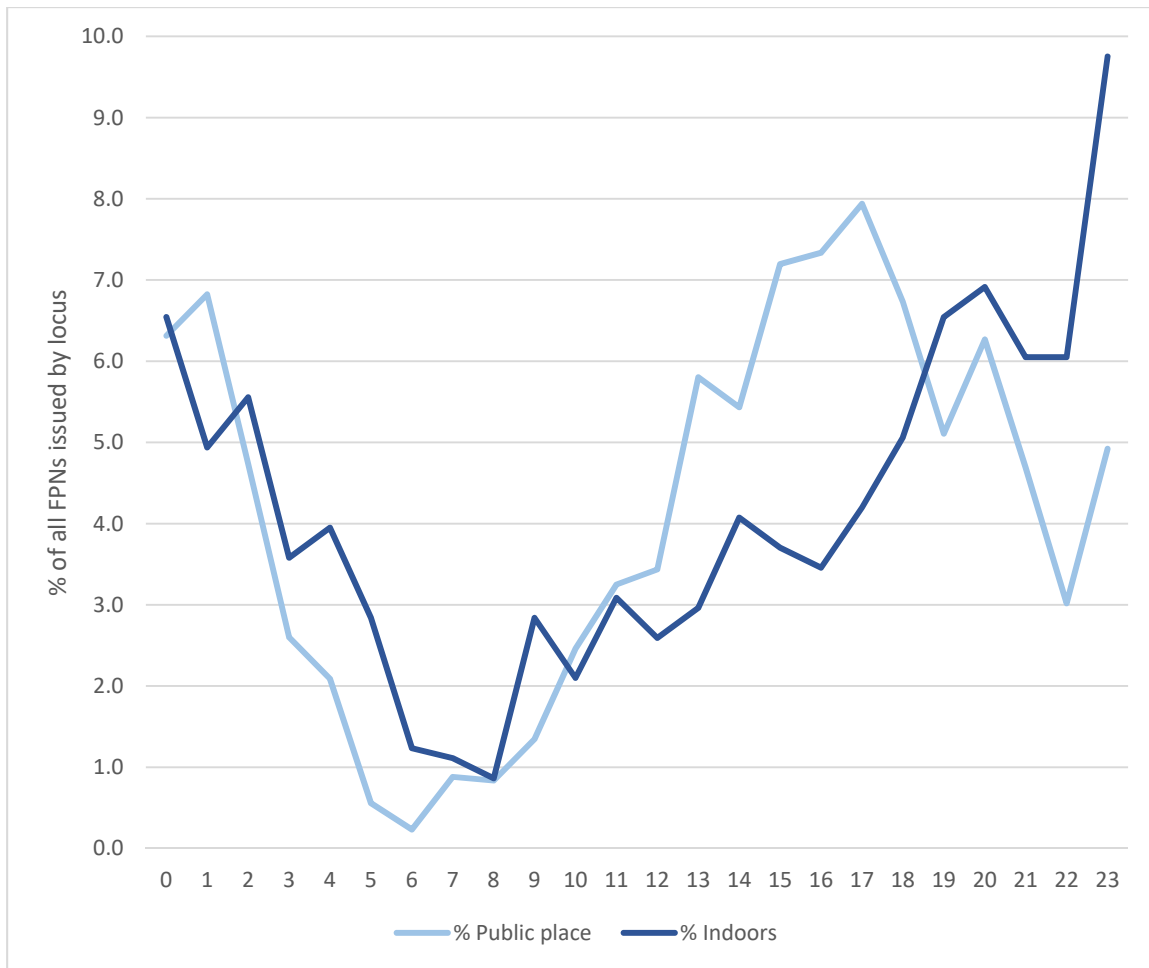


Figure 9: Time of the day that FPNs were issued in Scotland by locus type, 27th March to 31st May (n=2,964)

8. Geographical profile of Fixed Penalty Notices issued

8.1 Use of FPNs by Division

Exactly 70.0% of all FPNs issued during the initial lockdown phase occurred as a result of breaches in Police Scotland’s West Command Area, while 18.9% occurred in the East and 11.1% in the North. These proportions are broadly consistent with the pattern of Coronavirus-related policing activity more generally, as reported in McVie et al (2020).²⁶ The bars in Figure 10 show the number of FPNs issued by each Police Division within the three Command Areas. By far the largest number of FPNs was issued by Greater Glasgow Division (30.0% of the total), which was substantially higher than all other Divisions. The number of FPNs issued in other West Divisions was also higher than that issued by Divisions in the East and North, including Lanarkshire (12.2%), Argyll and West Dunbartonshire (10.3%), and Renfrewshire and Inverclyde (9.9%). The City of Edinburgh accounted for only 7.4% of all FPNs, while the North East Division (which includes the City of Aberdeen) accounted for only 3.3%.

²⁶ See Section 3.2.1 of McVie, Morales and Pantoja (2020) Interim report on data for the Independent Advisory Group on Police Use of Temporary Powers related to the Coronavirus Crisis. <https://www.understanding-inequalities.ac.uk/police-use-of-new-covid-19-powers-admin-data-analysis>

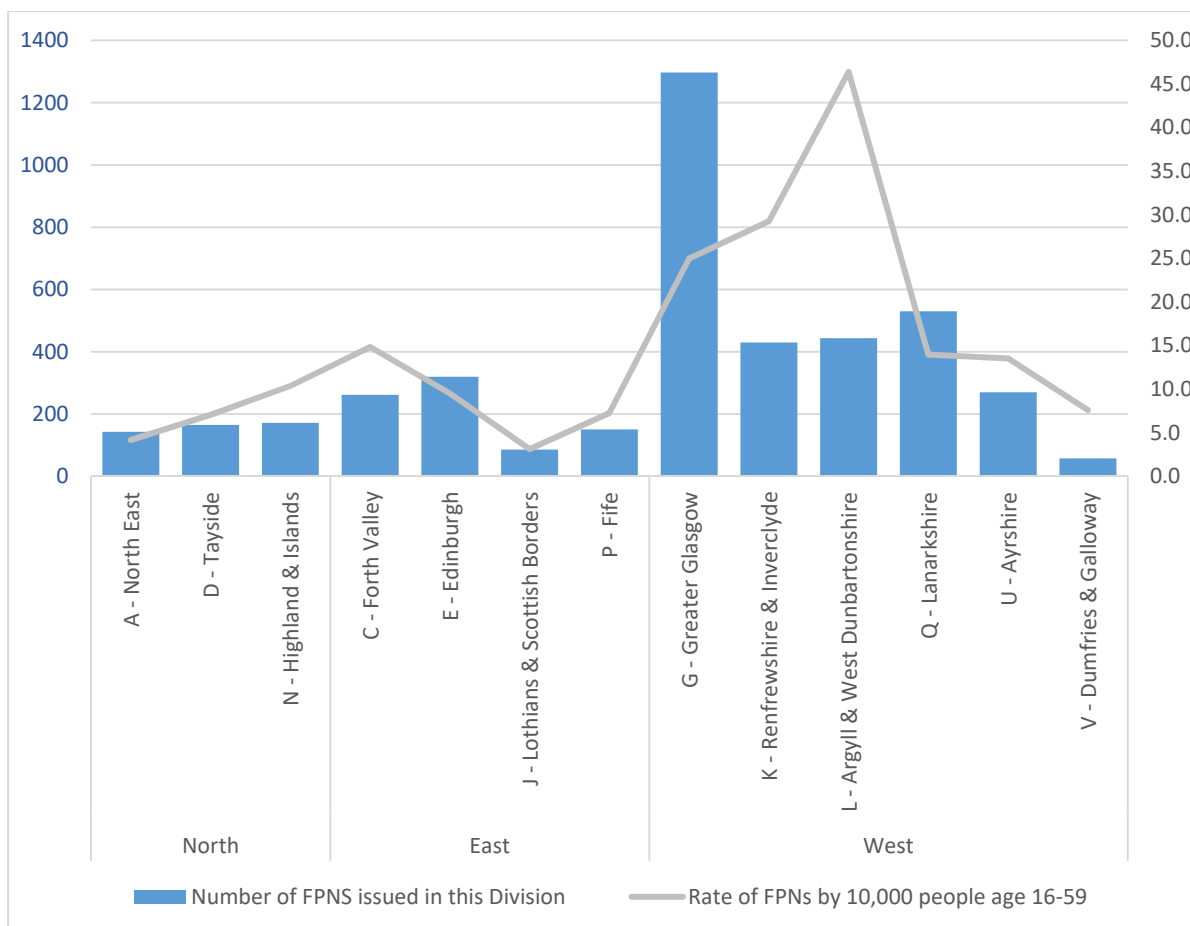


Figure 10: Number of FPNS and rate per 10,000 population by Scottish police Division and Command Area, 27th March to 31st May 2020 (n=4,328)

It is important to take account of population size in comparing the amount of enforcement during lockdown, as some Divisions have many more people living in them than others. The line in Figure 10 shows the profile of FPNS issued across Divisions as a rate per 10,000 of the population aged between 16 and 59.²⁷ If the same proportion of people living in each Division was subject to enforcement, this line would be flat. The variation in the line shows that there were considerable differences between Divisions in the extent of enforcement activity, even taking population into account.

While the total number of FPNS issued was highest in Greater Glasgow, the rate of activity taking population into account was highest in Argyll and West Dunbartonshire and second highest in Renfrewshire and Inverclyde. The rate of enforcement was still high in Greater Glasgow compared to other Divisions, but it was only around half the level for that of Argyll and West Dunbartonshire and was slightly lower than Renfrewshire and Inverclyde. The rate of FPNS issued for Forth Valley was also higher than other Divisions when population size was taken into account. Taking population size into account, therefore, shows a different picture of enforcement activity. Nevertheless, like the total numbers, the rate of enforcement was typically higher in the West of Scotland than the East or North.

²⁷ Rate per 10,000 people age 16-59 is used since FPNS could not be issued to anyone under the age of 16, and 98.5% of all FPNS were issued to people within this age range.

8.2 Offence-based and Offender-based FPN rates within Division

In their analysis of the FPNs issued for breaches of the Coronavirus Regulations in England and Wales over broadly the same period of time, Currenti and Flatley (2020) were critical of relying on the population base to calculate rates of policing activity.²⁸ They note that disparities in the rate of FPNs issued across Police Force Areas (PFAs) based on the resident population may have been influenced by people travelling from the PFA they live in to another, particularly in the case of PFAs with more scenic areas or tourist hotspots. The same problem occurred within Scotland, with 19.5% of all FPNs being issued to people who were not resident in the Division in which they received the FPN.

This did vary substantially by Division, as shown in Figure 11. Most notably, more than two in every five FPNs issued in Argyll and West Dunbartonshire were to people that were not resident in this Division; while almost two in five FPNs issued in Edinburgh went to people living outside the city. Forth Valley, Highland and Islands, Renfrewshire and Inverclyde, and Dumfries and Galloway Divisions also had above average numbers of FPNs issued to non-residents. This is consistent with media reports of members of the public travelling to exercise and relax in popular tourist destinations, especially on hot and sunny days, including Loch Lomond, Portobello Beach and the Meadows in Edinburgh, the Trossachs National Park and popular hillwalking sites in the far North of Scotland. Some parts of Scotland, such as the North East and Fife, issued FPNs to a very small proportion of people from outwith the Divisional area; although, the number of FPNs issued within these Divisions was very small in any case.

In effect, the rate of FPNs by Division shown by the line in Figure 10 is an *offence-based rate* as it compares enforcement activity in terms of where the breach of the Regulations took place; however, it is also important to examine the *offender-based rate*. Applying Currenti and Flatley's methodology, this involves calculating the rate based on the Division in which the person who breached the Regulations was living, rather than where they committed their offence. This is useful as it tells us whether people from particular parts of Scotland were more or less likely to receive FPNs for non-compliance with the Coronavirus Regulations. It is important to note that this is not necessarily a good comparator of non-compliance across the population as a whole within these areas, as this could also be dependent on differential policing practice. Nevertheless, the fact that policing in Scotland was governed by a single strategic approach to enforcing the lockdown Regulations is likely to have minimised the probability of a differential policing effect.

²⁸ Currenti, R. and Flatley, J. (2020) Policing the pandemic: Detailed analysis on police enforcement of the Public Health Regulations and an assessment on disproportionality across ethnic groups. National Police Chiefs' Council. <https://www.northyorkshire-pfcc.gov.uk/content/uploads/2020/07/Policing-the-Pandemic-NPCC.pdf>

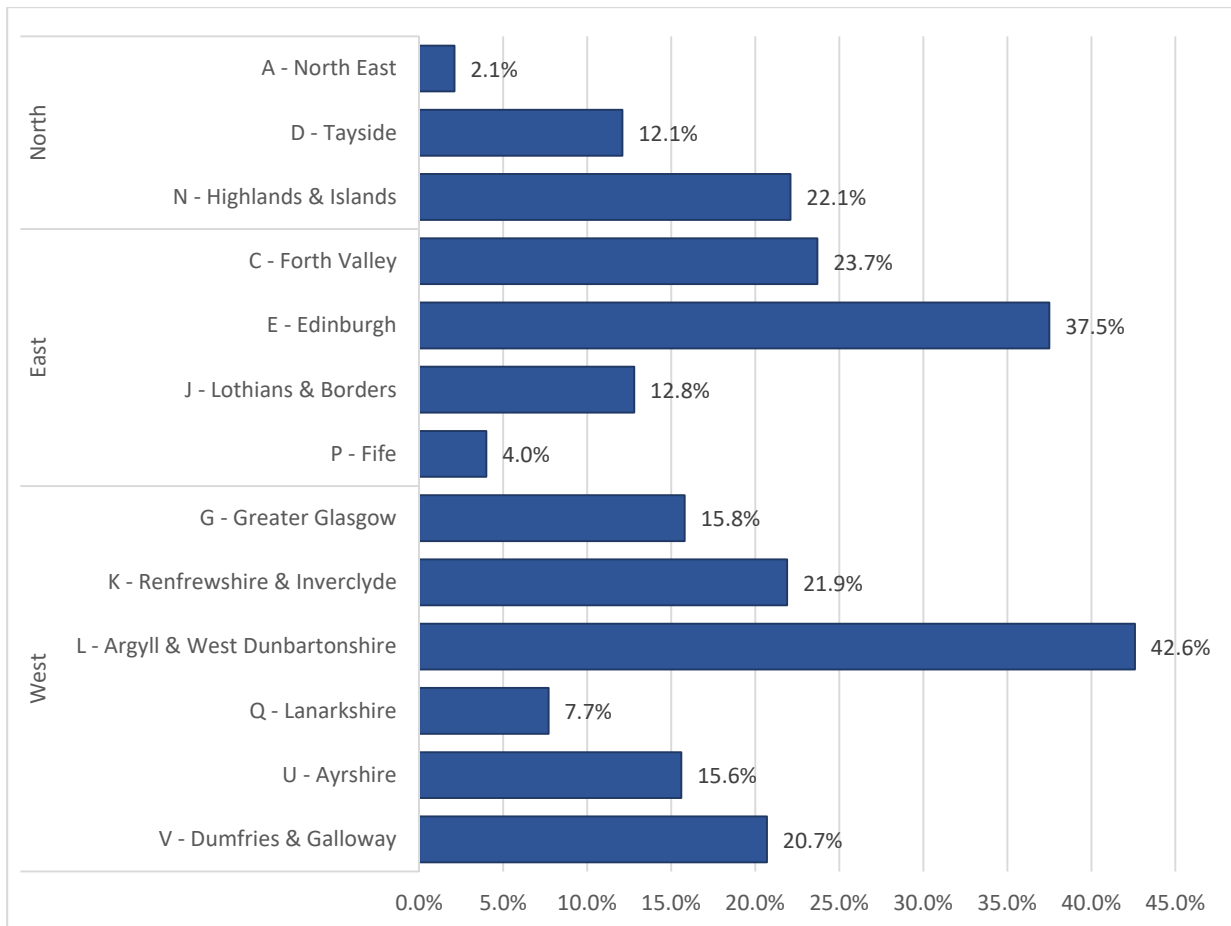


Figure 11: Percentage of FPNs issued to non-residents by Police Scotland Division and Command Area, 27th March to 31st May 2020 (n=4,328)

Figure 12 compares the offence-based rate (i.e. the number of FPNs issued in each Division as a rate per 10,000 people living in that Division) with the offender-based rate (i.e. the number of people living in each Division who were issued an FPN as a rate per 10,000 people living in that Division).²⁹

For some Divisions, such as the North East, Tayside, Fife, Greater Glasgow, Ayrshire, and Dumfries and Galloway, the difference between the two was fairly small. This suggests that people travelling in from other Divisions had a minimal effect on the enforcement activity in these Divisions. For other Divisions, the offence-based rate was larger than the offender-based rate, which suggests that the rate of enforcement was inflated by people travelling in from another Division. This was especially the case for Argyll and West Dunbartonshire, but also true for Renfrewshire and Inverclyde, Forth Valley, Edinburgh and the Highlands and Islands. For a few Divisions, the offender-based rate was higher than the offence-based rate, which indicates that people from that Division were more likely to be committing offences by travelling into other Division. This included people living in the Lothians and Scottish Borders, and Lanarkshire.

²⁹ There were 281 FPN cases with missing information on the home address of the offender, although information on the Division could be imputed for 180 of these.

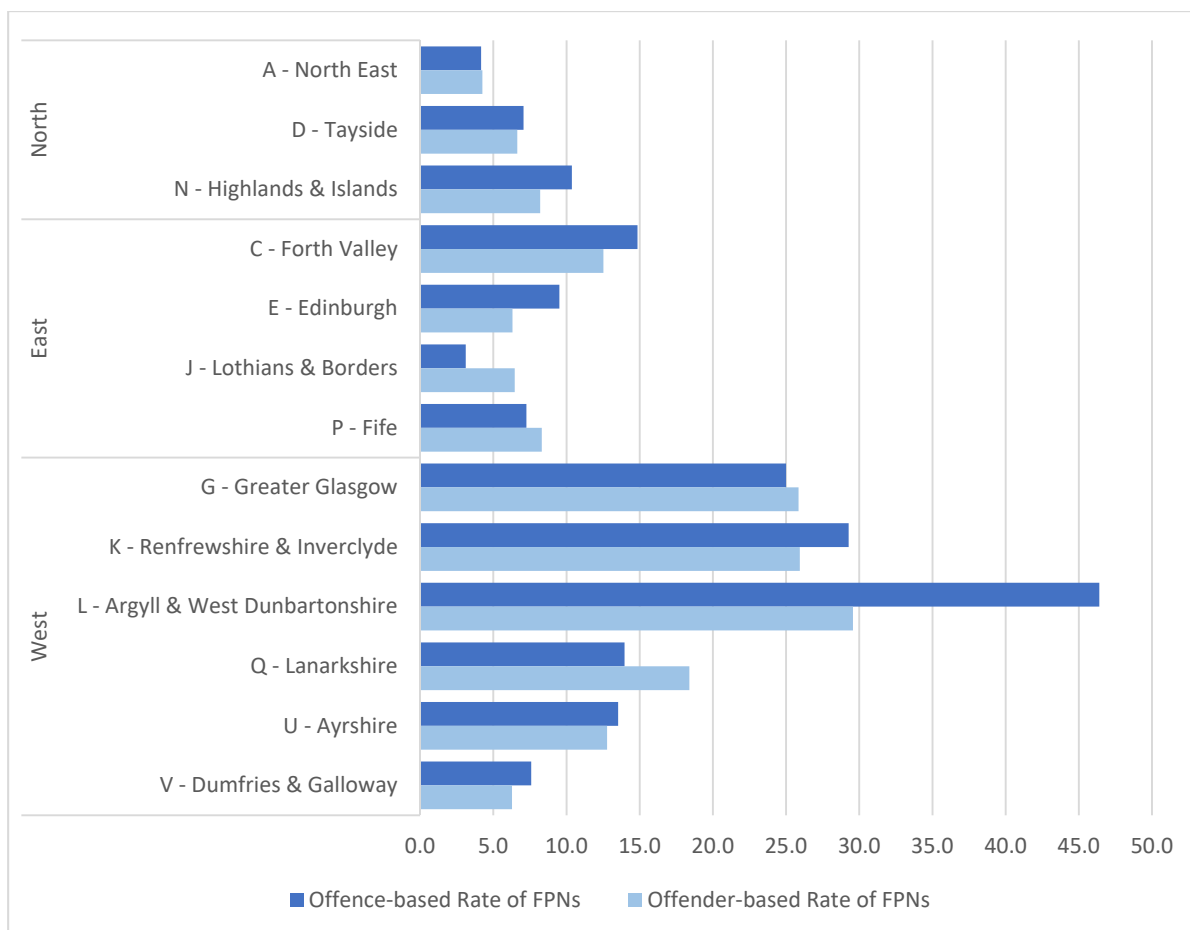


Figure 12: Offence and offender-based rate of FPNs issued per 10,000 people by Scottish police Division and Command Area, 27th March to 31st May 2020 (n=4,227)

8.3 Use of FPNs for Cross-Divisional Travel

The discrepancy between the offence rate and the offender rate was investigated in more detail, in order to better understand where people in receipt of FPNs had journeyed to and from. Figure 13 shows the percentage of all FPNs issued in each Division to people living in another Division (note that the percentage of offenders who offended in the Division they were living in is not shown). As noted in Figure 11, above, there was a substantial difference in the extent to which people issued with FPNs had travelled outwith the boundary of their policing Division. Nevertheless, some clear patterns emerge. People resident in the Northern Divisions (coloured blue) were rarely issued with FPNs in other Divisions. A very small proportion (2.8%) of FPNs issued in the Highlands and Islands were issued to people from Tayside, but there was very little evidence of people receiving FPNs as a result of travelling outside of the North. It was more common that people were travelling into the Northern Divisions from elsewhere, primarily from Fife (in the case of Tayside) and from Western Divisions (in the case of Highland and Islands).

People living Eastern Divisions (coloured green) were most likely to be issued with an FPN in another Eastern Division, especially Edinburgh and Forth Valley, although there was some evidence of travel to the North and West. It is notable from Figure 13 that 29.0% of all FPNs issued in Edinburgh involved people resident in the Lothian and Scottish Borders (its neighbouring Local Authorities).

The most common occurrence of an FPN being issued to someone from another Division involved people from the West of Scotland. In the majority of cases, this involved people from one Western Division being issued with an FPN in a neighbouring Western Division. However, a substantial proportion of FPNs were issued in Forth Valley and, to a lesser extent, Highland and the Scottish Islands, the Lothians and Scottish Borders, Edinburgh and Tayside. People who were resident in Greater Glasgow accounted for 24.6% of all FPNs issued in Argyll and West Dunbartonshire and 15.4% of those issued in Renfrewshire and Inverclyde, while 10.2% of all those receiving an FPN in Greater Glasgow were from Lanarkshire.

The profile of FPNs presented in Figure 13 demonstrates that a significant amount of enforcement was driven by people travelling outside of their local area. During lockdown, guidance was issued by the Scottish Government for people to stay within a 5 mile radius of the home address in order to prevent the spread of the Coronavirus. While the findings presented here cannot be used to estimate the proportion of people who ignored this guidance, it is clear that a substantial proportion of police enforcement – especially in certain Divisions – was focused on those who disregarded this aspect of the guidance.

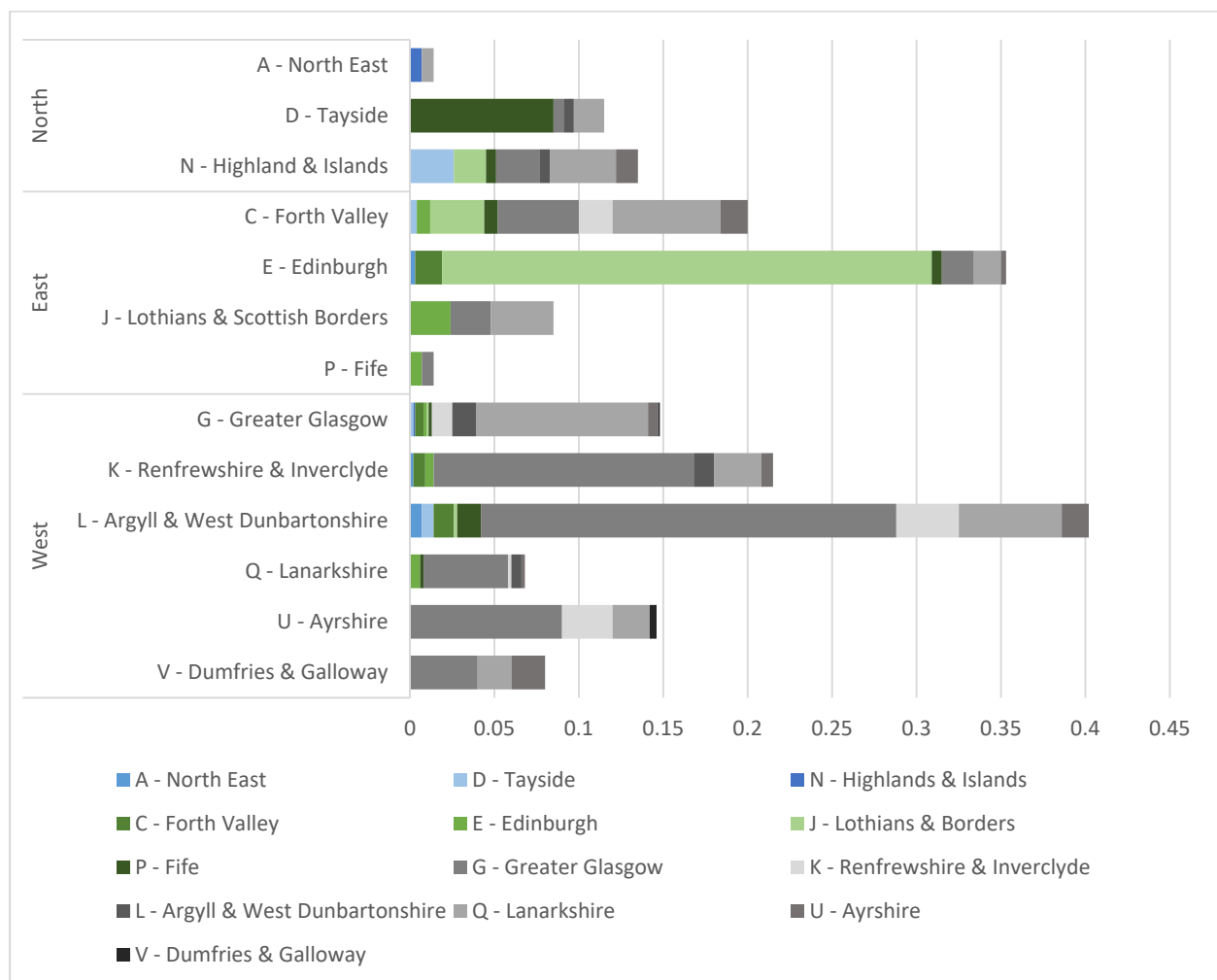


Figure 13: Percentage of all FPNs issued within a Division to people living in another Division, 27th March to 31st May 2020 (n=4,227)

It is not possible to estimate exactly how far people travelled between Divisions; however, Divisions are quite large geographical areas and so it is possible that some people were travelling substantial distances, and certainly more than 5 miles. While in many cases people were travelling to a neighbouring Division, there was also evidence of FPNs being issued to people who had travelled much further afield. Given the requirements of the government advice, such policing activity would be considered proportionate and appropriate.

8.4 Temporal pattern of FPNs within Divisions

Figure 14 shows the trend in the daily number of FPNs issued from 27th March to 31st May for each of the thirteen Scottish police Divisions. There was considerable variation across the Divisions and it is evident that there is no clear trend in the use of enforcement over time, either across the different local policing areas or within the three Command Areas. Some Divisions had one or two distinct spikes in the use of enforcement but relatively little other activity (e.g. the North East, Forth Valley, Edinburgh, Lanarkshire and Dumfries and Galloway). A number of Divisions had a higher level of enforcement activity at the start of the period which then tailed off over time (e.g. Tayside, Highland & Islands, Edinburgh, Lothians & Scottish Borders, Lanarkshire and Dumfries & Galloway), while others showed a more variant pattern of issuing FPNs at different time points. Figure 14 suggests that the pattern of enforcement in each Division was unlikely to be the result of 'macro-level' factors (such as political messaging or changes in national guidance), but was more likely to be driven by local factors and challenges faced by officers in their areas.

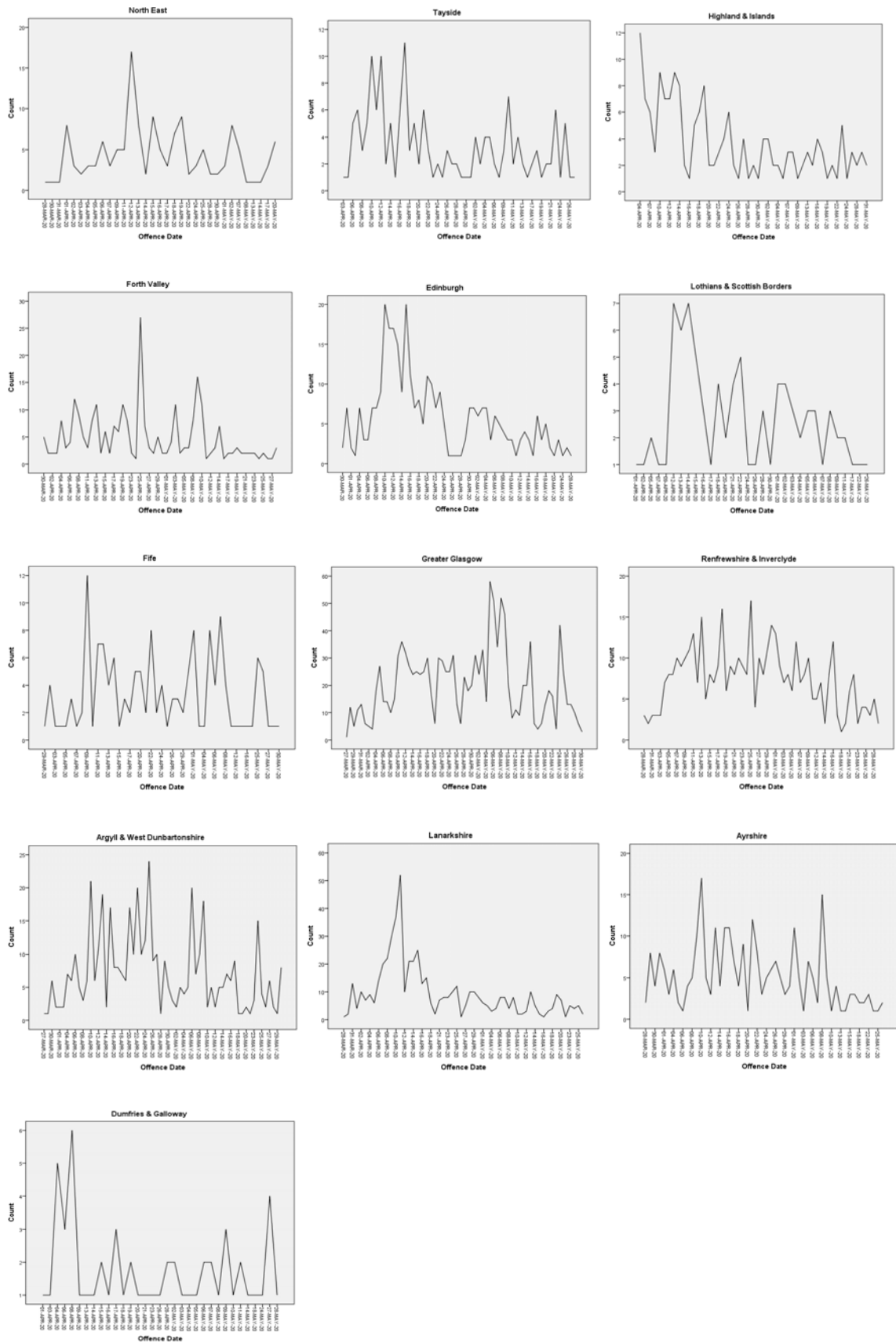


Figure 14: Daily number of FPNs by Division in Scotland, 27th March to 31st May 2020 (n=4,328)

8.5 Locus of FPNs issued within Divisions

As noted in Section 7, on average seven out of ten incidents in which an FPN was issued involved a breach of the Coronavirus Regulations that occurred in a public place. However, this varied substantially across the country. Figure 15 shows that the proportion of FPNs issued in public places was much higher than the proportion issued in indoor localities in the majority of Divisions, with the highest proportion being in Tayside, Highlands and Islands and Greater Glasgow. However, some Divisions had a much higher than average proportion of FPNs issued as a result of incidents occurring indoors. Indeed, over half of FPNs issued in Fife Division involved incidents occurring indoors, with relatively high proportions also in the North East, Lanarkshire and Ayrshire. Again, this suggests that local factors and circumstances were strong drivers for the pattern of activity observed across different Scottish police Divisions.

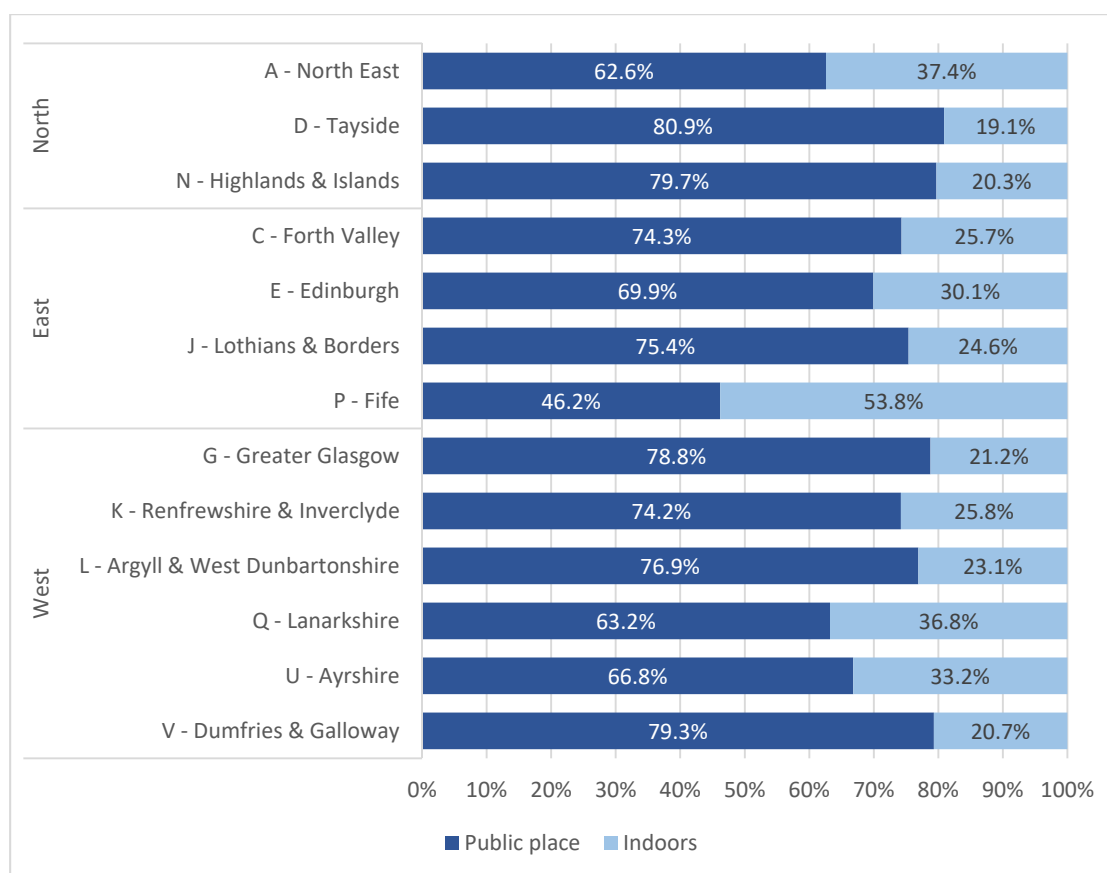


Figure 15: Proportion of FPNs issued in public places or indoors by Division in Scotland, 27th March to 31st May 2020 (n=2,974)

9. Deprivation profile of Fixed Penalty Notice recipients

9.1 Overall profile of FPNs by SIMD

A key concern of the Scottish and UK Governments during the lockdown was whether the Coronavirus pandemic had impacted more on people living in deprived communities than elsewhere. The level of deprivation in an area is already known to be a factor that impacts on operational policing practice; so, using information about home Datazone of the offender, information from the Scottish Index of

Multiple Deprivation was assigned to the majority of FPNs issued in Scotland.³⁰ Figure 16 shows that there was a strong and significant relationship between the use of enforcement and the level of deprivation relating to the home addresses of the recipients. Just under a third of all FPNs (where home address of the offender was recorded) were issued to people living in the 10% most deprived communities in Scotland. Whereas, only one in forty of all FPNs were issued to people living in the bottom 10% of the SIMD Decile scale (i.e. the most affluent communities of Scotland). This is a disparity rate of 12 times the level of enforcement amongst those living in most deprived parts of Scotland compared to those living in the least deprived parts.

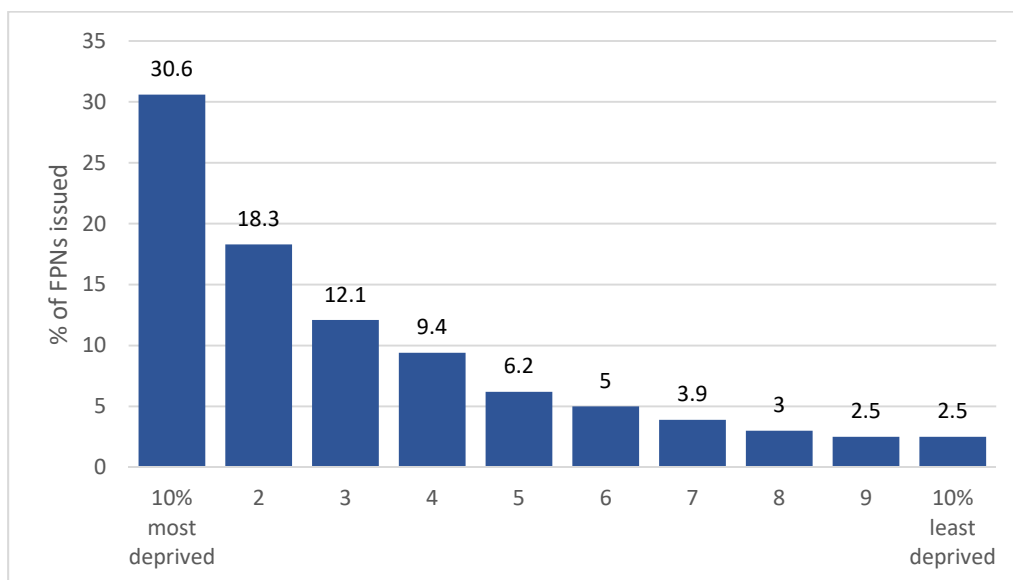


Figure 16: Percentage of all FPNs issued by SIMD Decile in Scotland, 27th March to 31st May 2020 (n=4,047)

9.2 Demographic profile of FPNs by SIMD

It was not possible to determine whether Figure 16 is typical of the pattern of Scottish policing enforcement more generally, as that would require access to population data from the criminal history system. It is also not possible to say whether it reflects the pattern of non-adherence to the Regulations, as there are no data to measure that. For both of these reasons, it is difficult to say whether the use of FPNs during the initial lockdown phase reflects disproportionality in terms of policing practice. Nevertheless, it shows a clear difference between the experience of those living in Scotland's most and least deprived communities in terms of the use of the temporary policing powers. Given that the wider health and economic impacts of the pandemic are expected to have the biggest impact on the UK's poorest communities, any additional deficit caused by the impact of policing enforcement would be likely to have a disproportionate impact on this group of people.

Taking account of the possible intersectional nature of inequality and the impact of the Coronavirus pandemic, the interplay between neighbourhood deprivation and other demographic characteristics was considered in this analysis. From an inequalities perspective, it was important to consider whether women, children and young people, and those from BAME backgrounds, who were living in deprived communities, were more likely than others to have been subject to enforcement (potentially due to the

³⁰ There were 281 FPN cases with missing information on the home address of the offender, so SIMD information could not be assigned.

detrimental impact of the pandemic on their lives and circumstances). In terms of sex differences, 58.0% of all FPNs issued to women involved someone living in one of the 20% most deprived communities in Scotland compared to 50.6% of FPNs issued to men. This difference was statistically significant. Indeed, the disparity index between FPNs being issued to women in the 20% most deprived compared to the 20% least deprived neighbourhoods was 15 compared to 9 for men. This suggests that deprivation may have played a greater role in the use of enforcement against women than men during lockdown; although, it is impossible to be certain without knowing the underlying behaviour of people from different communities.

Figure 17 shows that a high proportion of FPNs issued across all age groups involved people living in the most deprived communities; however, this was most pronounced for people between the age of 41 and 55. Just under half of all FPNs issued to those under the age of 21 were given to people living in the 20% most deprived communities of Scotland; however, this was not higher than most other age groups. FPNs issued to older people (over the age of 55) were less likely to affect those in the most deprived communities; although, this was still the case for over two in five of all FPNs issued to that age group. This does not suggest any additional use of enforcement during lockdown amongst children and young people from disadvantaged communities compared to other age groups. Indeed, the disparity index between FPNs being issued to those in the 20% most deprived communities compared to the 20% least deprived communities was lowest for those aged 25 or under (at around 8) and highest amongst those aged between 41-55 (at around 20).

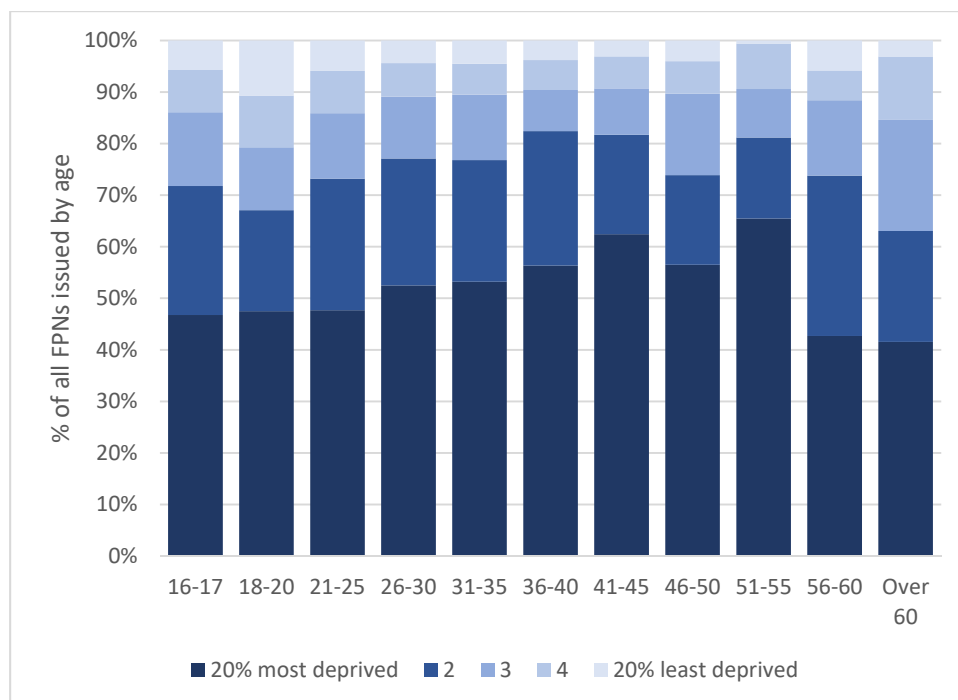


Figure 17: Percentage of all FPNs issued by SIMD Quintile and age group in Scotland, 27th March to 31st May 2020 (n=4,044)

Conducting the same analysis for different ethnic groups, Figure 17 shows that enforcement during lockdown was most likely to involve people from the most disadvantaged communities of Scotland regardless of their ethnicity. FPNs that were issued to people from White and African, Black or Caribbean backgrounds were the most likely to involve people living in the 20% most deprived communities. There was no significant difference in the SIMD profile of these two groups; however, the

disparity index comparing the proportion of FPNs issued to those in the 20% most deprived communities compared to the least was higher for African, Black or Caribbean backgrounds compared to White people (at 18 versus 11, respectively). FPNs issued to people from Asian backgrounds were significantly less likely to involve people living in the most deprived communities compared to those from White and African, Black or Caribbean backgrounds, and were the most likely to have involved people from the 20% least deprived neighbourhoods. The disparity index for FPNs issued to people from Asian backgrounds was only 2. Those from other ethnic backgrounds (including mixed or multiple groups) also had a significantly less deprived profile compared to those from White and African, Black or Caribbean ethnic groups. Although their profile was not significantly different to that of people from Asian backgrounds, the disparity index for this ethnic group was slightly higher at 4.

Overall, these findings suggest that use of enforcement by Police Scotland during the initial phase of the lockdown did primarily involve people living in the poorest parts of Scotland. This was true regardless of age, sex and ethnicity. However, the disparity indices show that there was an incremental likelihood of receiving an FPN amongst women, those aged 41 to 55 and people from White and African, Black or Caribbean backgrounds who were living in poverty.

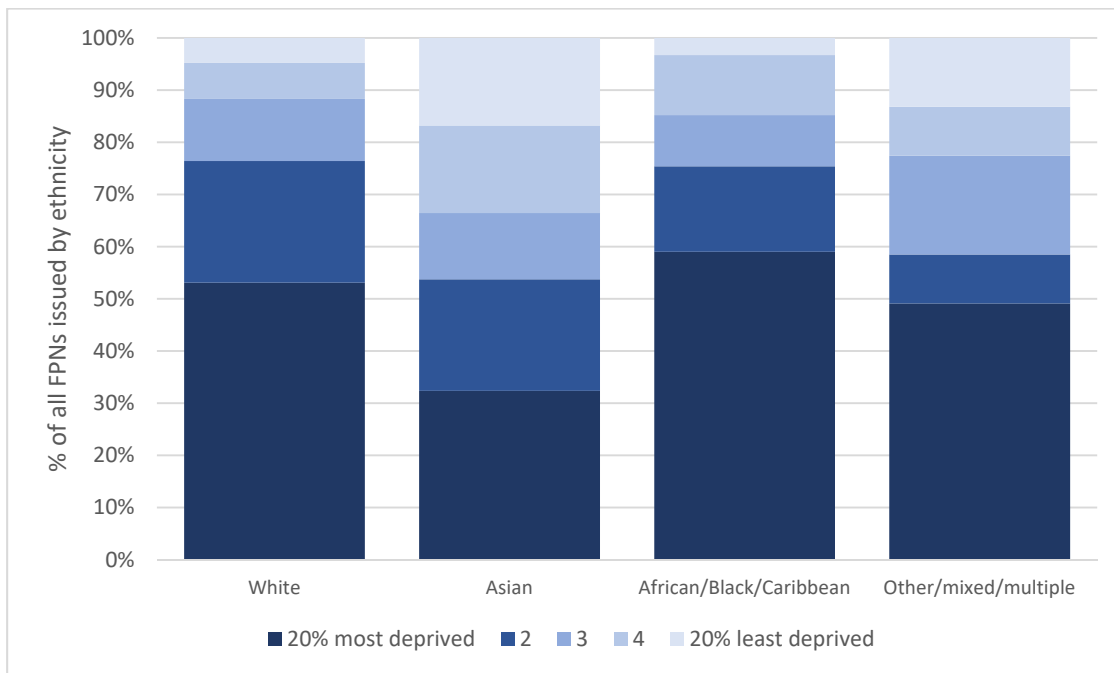


Figure 17: Percentage of all FPNs issued by SIMD Quintile and ethnic group in Scotland, 27th March to 31st May 2020 (n=3,874)

10. Comparison of Fixed Penalty Notices issued in Scotland to England and Wales

A recent report published by the National Police Chiefs' Council (NPCC) reported on the number and rate of FPNs issued under the Coronavirus Regulations for England and Wales.³¹ According to this report, there were 17,039 FPNs *processed* across the whole of England and Wales between 27th March and 25th May 2020. While the total number is higher than Scotland, it represents a rate of 3 FPNs for every 10,000 people in England and 6 for every 10,000 in Wales.³² In Scotland during the equivalent period, there were 4,215 FPNs *issued*, which represents a rate of 7.8 for every 10,000 people in Scotland. However, the data for Scotland are not comparable to those for England and Wales because the Scottish data includes all FPNs issued even though not all of these would have been processed for payment through the Scottish Courts and Tribunal Service (SCTS); whereas, the figures for England and Wales only include processed tickets. It is estimated that around 10% of the tickets for England and Wales were rescinded, duplicates or not processed for other reasons. If this were the case for Scotland, the rate would reduce to 7.0 per 10,000 people. However, it is impossible to be certain. Comparable data have been requested from the SCTS and will be published at a later date.

Nevertheless, caution must be taken in interpreting any comparisons between these three jurisdictions and drawing conclusions about the rate of Coronavirus-related police enforcement, for two main reasons. First, the absolute number of FPNs issued in all three countries was very small and population sizes are large, so large differences in rates can conceal small differences in numbers. And second, these rates are based on the number of FPNs and not the number of people who received FPNs, so any difference between countries in the issuing of multiple tickets to the same individuals would lead to different rates. .

11. Concluding points

This report has provided the first comprehensive analysis of the use of Fixed Penalty Notices (FPNs) by Police Scotland under the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020. The regulations, which were approved by the Scottish Parliament on 27th March 2020, gave police officers temporary powers to issue FPNs to anyone age 16 or over or, in extreme circumstances, arrest them for failing to comply. It cannot be overstated that the Regulations placed severe constraints on people's freedom of movement and association during lockdown which meant, therefore, that the police were given powers to issue financial penalties to people who were behaving in ways that, under normal circumstances, would have constituted normal law abiding behaviour. Given the extent of the constraints on our civil liberties and the importance of policing by consent in Scotland, it was wholly appropriate for Police Scotland's Chief Constable to issue a clear message from the start that FPNs would be issued only in those cases where breaches of the Regulations were blatant and all other efforts to secure compliance had failed.

³¹ Currenti, R. and Flatley, J. (2020) Policing the Pandemic: Detailed analysis on police enforcement of the Public Health Regulations and an assessment on disproportionality across ethnic groups. National Police Chiefs' Council. <https://www.northyorkshire-pfcc.gov.uk/content/uploads/2020/07/Policing-the-Pandemic-NPCC.pdf>

³² The NPCC report uses Mid Year Population Estimates for 2016 from the Office for National Statistics to calculate the population rates; therefore, equivalent data from the National Records of Scotland were used to calculate the rate for Scotland (although rates based on 2020 population data were almost identical).

During the initial phase of the lockdown, this report found that 4,328 FPNs were issued – meaning that fewer than 0.1% of the Scottish population was impacted overall. After an initial sharp increase in the use of FPNs following the immediate introduction of the Regulations, it is clear that the emphasis on using enforcement to deal with those who were breaking the new laws waned over time; no doubt partly due to the Chief Constable’s emphasis on using other means to secure public compliance, but also reflecting the fact that policing was returning to business as usual after restrictions started to gradually ease. While officers could issue up to five tickets to a single individual, the majority of FPNs were for the first level amount of £60 which provides little evidence of repeat breaches of the Regulations, although this will be subject to a further report in due course.

It is interesting to note that the demographic profile of FPNs issued had strong similarities to the profile of those who are stopped and searched, although the circumstances and nature of the policing activities are very different. This does not suggest by any means that police officers were using the types of suspicion that may be used in stop and search encounters to approach those suspected of breaching the Regulations, and caution should be taken before drawing any inferences based on the comparison with stop and search data. However, the comparison is useful in that it helps to substantiate anecdotal reports from officers that the profile of those who were least likely to comply with the Regulations often included those that they would be likely to encounter through routine policing. The fact that more than four out of five individuals were already known to the police on the criminal history system further evidences this point; although, it is not possible to say anything about the nature or frequency of their police interactions.

The fact that more men than women were issued with FPNs is typical of policing enforcement generally; and the age profile of those that were penalised for breaching the Regulations is also typical of the age-crime curve that is well known to criminologists. There is substantial evidence to suggest that younger people were less likely to comply with the Regulations, and to do so at an earlier stage in the lockdown, which would help to explain the age pattern of the FPNs issued. There has also been considerable discussion about the impact of the pandemic on BAME communities, and the report by Currenti and Flatley (2020) found clear evidence of disproportionality in the policing of people from BAME backgrounds. In Scotland, the vast majority of encounters involved White British nationals, although a higher than expected number of FPNs were issued to people from BAME backgrounds (especially Asian people) and non-British nationals were over-represented compared to the general population (including those born in Asia). Nevertheless, it is not possible from the data presented in this report to draw any strong conclusions about disproportionality in policing practice based on the demographic profile of FPN recipients. Moreover, the absolute number of people from BAME backgrounds that were issued with FPNs during lockdown in Scotland is so small that population-based comparisons could be unreliable.

The timing and location of FPNs issued during lockdown tells a story of localised policing challenges influenced by the weather and the characteristic geography of Scotland. Marked spikes in enforcement activity largely coincided with weekends, holidays and periods of good weather; and these spikes are also evident in the geographical patterning of enforcement – especially in those Divisions that incorporate particularly popular tourist destinations and beauty spots. It is notable that Argyll and West Dunbartonshire (which incorporates Loch Lomond and part of the Trossachs National Park) had the highest rate of FPN issue of all Divisions, and yet when accounting only for those that were resident in that Division, the rate of activity was dramatically lower. It is apparent that policing within some Divisions was made much more challenging by the degree of unnecessary travel across Divisional boundaries; while other Divisions had far fewer problems of this kind. Similarly, patterns of activity relating to breaches that occurred in outdoor places and those involving social gatherings indoors varied

widely across the country. It seems clear from the data that the pattern of enforcement was driven not by 'macro-level' changes or public messaging, but by localised policing challenges and requirements.

A strong theme of this report is the relationship between enforcement and deprivation. Data such as the information collected by Police Scotland during the pandemic is rarely made available for research, and so it is difficult to make any comparisons of the profile of FPN recipients with any other police-based data. Nevertheless, the disparity in the likelihood of receiving an FPN for breaching the Coronavirus Regulations amongst those in the most and the least deprived communities of Scotland is startling. Whatever the reason, it demonstrates a significant degree of inequality across the Scottish population based on where people live and the circumstances they find themselves in. The pandemic has thrown into sharp relief the issue of health inequalities, and there are forecasts of increasing economic and employment inequalities in the months and years ahead. This report also highlights the possibility that there may have been justice inequalities, in terms of who has been subject to enforcement and the drivers of their non-compliance. The data presented here suggest that the level of inequality may have been particularly pronounced for women compared to men, people in middle age rather than younger people or those in the oldest age groups, and those from White and African, Black or Caribbean backgrounds compared to those from other ethnic groups. Within ethnic group, the largest disparity was found amongst those from African, Black or Caribbean backgrounds where the difference in likelihood of receiving a FPN was greatest between the most and least deprived; however, small numbers make it dangerous to draw any strong conclusions from these findings.

Finally, there has been strong speculation about the use of enforcement in different jurisdictions. Making comparisons between Scotland and other parts of the UK is difficult, as there were different ways of collecting and processing data. Based on published data, Scotland may look like it has a higher rate of enforcement activity during lockdown; however, the data are not comparable and so no robust conclusion can be drawn.

Further analysis of enforcement data will be carried out for subsequent reports to the IAG and the SPA. This will include a more detailed analysis of the individuals who received an FPN, differentiating between those who received single tickets and those who were issued with two or more FPNs. Comparisons to population level data will be more accurate, and will allow greater certainty about issues such as 'disproportionality' in policing between groups. In addition, some data on those who were arrested as a result of breaching the Regulations will be published. Further work will also be done to examine the ongoing profile of Police Scotland's use of the temporary powers as lockdown progressed into each new phase of easing restrictions.

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APPENDIX D

Work Plan

Appendix D is the updated Independent Advisory Group Work Plan, to reflect already agreed actions, what is complete or in place, and to stimulate ongoing discussion about the work required to ensure delivery against the terms of reference. It is an iterative programme, reflecting changes and priorities over time, while leaving sufficient flexibility to address matters urgently when this is required.

The agreed areas of focus are:

- i. The data and evidence required to support the work of the IAG as laid out in the terms of reference, and understanding what the data and evidence is telling us. Data and evidence will: be collated and reviewed; inform recommendations on an ongoing basis; and be reflected in public reporting.
- ii. Delivering and promoting access routes into the group via professional and community networks as well as open access via a public portal, to enable the public and impacted groups to share perspectives and give evidence to the IAG on their experiences. Findings are reviewed; inform recommendations on an ongoing basis; and are reflected in public reporting. Particular attention is paid to ensuring any disadvantaged or impacted groups are able to participate.
- iii. Maximising the use of the professional input and expertise from within and outside the group, to access and review supporting evidence, offer advice, and inform associated recommendations.
- iv. Focus on the human rights implications of the use of the temporary powers.
- v. Set up processes which allow the group to access data and public perspectives to offer advice on a “live” basis, to support the policing response to any changes in lock down and public health guidance.

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Work Stream	Actions	Status Update	Current Priorities
Communications – raising awareness of the work of the Advisory Group, establishing access routes into the group for public and stakeholders	<p>Email address for public communications</p> <p>Supporting correspondence for partners, public and interested groups</p> <p>Citizen Space portal set up for public feedback</p> <p>Website presence and updates provided</p>	<p>Complete - COVID19IndependentAdvisoryGroup@spa.pnn.police.uk</p> <p>Circulated by IAG members to contacts and stakeholders.</p> <p>Launched 1st June 2020, extended until 30th September 2020.</p> <p>Web presence established; updates aligned to reports to SPA. Meeting notes are made regularly made available following each report to the SPA Board.</p>	
Engagement	<p>IAG members to reach out across their own networks to facilitate evidence gathering and support participation</p>	<p>Members continue to promote participation, via professional and community networks.</p> <p>Alternative access channels are now available to help combat digital exclusion.</p>	<p>Ongoing promotion to continue to gather public and stakeholder perspectives</p> <p>Continuing review of public feedback, and</p>

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Work Stream	Actions	Status Update	Current Priorities
	<p>Engagement and information sharing with the National Independent Advisory Group (NISAG)</p>	<p>IAG Chair engagement and liaison with senior office bearers in the Scottish Police Federation and the Association of Scottish Police Superintendents.</p> <p>IAG Chair attended the June NISAG meeting. The IAG has agreed to build closer links with NISAG, and strengthen the Advisory Group's access to NISAG members' expertise and perspectives on equality, diversity and community well-being impacts.</p> <p>NISAG is a Police Scotland sponsored group, made up of independent members offering advice on policies and process, particularly with regard to equality and diversity impacts and community well-being.</p>	<p>follow up action to address any gaps in participation</p>
<p>Data and Evidence Gathering</p>	<p>Options, key questions and sources of evidence are identified and aligned with terms of reference. Data gaps are noted where they cannot yet be addressed.</p> <p>Discussions with staff and officers in different areas to discuss issues</p>	<p>Data report on Police Use of Fixed Penalty Notices under the Coronavirus Regulations in Scotland prepared by Professor Susan McVie, made publicly available and reported to SPA Board 19th August 2020.</p> <p>Interim report on data for the Independent Advisory Group on Police Use of Temporary Powers related to the Coronavirus Crisis Report prepared by Professor Susan McVie with assistance from Dr Fernando Pantoja and Dr Ana Morales (20 June 20)</p> <p>Her Majesty's Inspectorate of Constabulary in Scotland ("<i>HMICS</i>"): Independent Advisory Group Report on Interviews with Police Scotland Officers and Staff (June 2020)</p>	<p>Extending data gathering and analytical work to continue to build the group's evidence base, inform the group's understanding of the impact of change, and inform future reporting.</p>

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Work Stream	Actions	Status Update	Current Priorities
<p>Data and Evidence Gathering</p>	<p>around the 4 Es and understand staff and officer perspectives.</p> <p>Ongoing liaison with OPTICAL group</p> <p>SWAN Scotland survey</p> <p>Police Scotland "Your Police" and User Experience Surveys</p> <p>SPA Public Opinion Survey</p>	<p>John Scott, Martyn Evans, Ephraim Borowski and Susan McVie are members of OpTICAL.</p> <p>Evidence and outcomes considered by the IAG, and reported publicly to SPA board 19th August 2020.</p> <p>Members considered evidence from Police Scotland Strategy and Insight on findings from the "Your Police" and User Experience surveys including Covid-19 response and public confidence measures 7th August 2020</p> <p>Members considered evidence from the SPA Public Opinion Survey 31st July 2020, focusing on levels of public confidence in policing, and levels of support for the Police Scotland approach.</p>	
<p>Assessment of Human Rights Impacts</p>	<p>D Quiroz (SHRC) has led preparation of guidance note for the IAG, incorporating relevant human rights provisions, for example, UN Guidance on the use of force by</p>	<p>Scottish Human Rights Commission ("<i>SHRC</i>") Paper to Independent Advisory Group Considering Police Scotland Use of Temporary Emergency Powers: Human Rights Guide to Examining New Police Powers in Response to COVID-19 (Diego Quiroz, June 2020)</p>	<p>The IAG will continue to look at the policing of protests in a pandemic with a view to offering further thoughts in its final report.</p>

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Work Stream	Actions	Status Update	Current Priorities
Assessment of Human Rights Impacts	<p>law-enforcement personnel in time of COVID-19 emergency</p> <p>Maria Galli (CYPCS) guidance note for IAG on human rights implications of regulations for children and young people</p> <p>Independent Children's Rights Impact Assessment</p>	<p>Children and Young People's Commissioner Scotland ("CYPCS") Briefing: The impact of emergency police powers on the human rights of children and young people in Scotland during the Covid-19 pandemic (Maria Galli, June 2020)</p> <p>Police Scotland processes to progress Community Impact Assessments, Equality and Human Rights Impact Assessment, and Child Rights and Wellbeing Impact Assessment were considered by the IAG 6 July 2020, as outlined in the report to the SPA Board 19 August 2020.</p> <p>Members were briefed by CYPCS and considered implications of the Independent Children's Rights Impact Assessment 24 July 2020 https://cypcs.org.uk/wp-content/uploads/2020/07/independent-cria.pdf</p>	

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Work Stream	Actions	Status Update	Current Priorities
<p>Drawing in additional expertise</p>	<p>The IAG invites input from a range of academic experts in the field, to inform the group's deliberations. These discussions are more fully reflected in the meeting notes available on the IAG website -</p> <p>https://www.spa.police.uk/strategy-performance/independent-advisory-group-coronavirus-powers/iag-public-reports/</p>	<p>Contributions reported 20th May 2020 included - from Professor Steve Reicher 1 May; Professor Ben Bradford 4 May, focused on factors supporting compliance, managing change and retaining public confidence; Dr Peter Neyroud 15 May 2020.</p> <p>22nd May 2020: Dr Megan O'Neill, SIPR and University of Dundee.</p> <p>29th May 2020: Fran Warren and Francesca Gualco, Scottish Government Justice Analytical Services.</p> <p>1st June 2020: Professor Roger Halliday, Chief Statistician, Scottish Government. https://blogs.gov.scot/statistics/2020/05/28/our-response-to-covid-19/</p> <p>15th June 2020: Dr Liz Aston, Director of the Scottish Institute for Policing Research (SIPR) https://sccjrblog.wordpress.com/.</p> <p>10th July 2020 – Policing of Protests and the Pandemic. Cliff Stott, Professor of Social Psychology, Keele University</p> <p>Policing of protests may be significantly impacted by the pandemic and emergency powers.</p> <p>Professor Stott outlined the nature of public assemblies, the factors influencing the behaviours of crowds, and some of the related challenges for policing including</p>	

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Work Stream	Actions	Status Update	Current Priorities
Drawing in additional expertise		<p>balancing rights with the need to police public assembly during the crisis.</p> <p>The importance of police community networks was highlighted in developing the capacity to de-escalate through dialogue and communication, and Professor Stott considered that Police Scotland is well positioned to take advantage of its community based approach.</p> <p>Professor Stott considered that Scottish Policing is building on success and innovation, particularly in the public health approach to tackling knife crime, and that this public health approach could be developed further in developing strategies around tackling sectarianism, and the policing of football.</p>	
"Sounding board" for Police Scotland forward planning and communications	Ongoing role for group members, as representatives of civic Scotland, offering personal and professional expertise, and insight from across their professional and community networks.	<p>Group members had early sight of and offered feedback on refreshed guidance for officers, reviewed to take account of changing legislation and easing of lockdown.</p> <p>The group met with Gold Commander, DCC Malcolm Graham, for an overview of Operation Talla and related discussion.</p> <p>1 May IAG meeting – ACC Bernard Higgins (leads Police Scotland strategy and operations on service transition from lock down) in attendance to allow IAG discussions to assist in informing strategy, including Communications.</p>	Ongoing challenges of transition period and easing of lockdown.

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Work Stream	Actions	Status Update	Current Priorities
<p>“Real time” advice and guidance – to Police Scotland; and to wider stakeholders via professional and community networks</p> <p>“Real time” advice and guidance – to Police Scotland; and to wider stakeholders via professional and community networks</p>	<p>IAG Chair correspondence to SPA Interim Chair on the use of face coverings, and wider application of lessons learnt from policing the pandemic which</p>	<p>Real time contact with Divisional Commanders has been established, offering a “two-way street” for real time updates to members, and “live” input to Police Scotland to inform planning and response –and allow immediate discussion in appropriate circumstances</p> <p>Regular dialogue has been established between group members and Police Scotland at Executive and Divisional Command level on local policing and public impacts and perspectives, policing local lockdown, and the impact of transition through the Scottish Government’s phased approach out of lockdown.</p> <p>Completed – submission of open letter to Police Scotland from SWAN Scotland.</p> <p>Completed- Glasgow Disability Alliance. Advice on interactions with disabled people (Temporary Police Powers under Coronavirus Act) Appendix to the report to the SPA Board 19 August 2020.</p> <p>Sent 13th July 2020 https://www.spa.police.uk/spa-media/ivlmh5mp/letter-to-dc-vc-final.pdf</p>	<p>Managing the ongoing challenge of offering advice and support for policing’s response in a developing and “live” situation, and when there may be a time-lag in the availability of supporting evidence.</p>

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Work Stream	Actions	Status Update	Current Priorities
	may have wider application across retail and public services.		
Identify any additional work priorities to deliver against TOR		<p>An initial review by the IAG Chair was undertaken, and reflected in forward planning for the IAG and the Chair's report to the SPA Board 30 June 2020.</p> <p>At the time, areas identified for future focus included Gaps in Powers, and Impact Assessments: Community Impact Assessment, Equality and Human Rights Impact Assessment and</p> <p>Police Scotland processes to progress Community Impact Assessments, Equality and Human Rights Impact Assessment, and Child Rights and Wellbeing Impact Assessment considered by the IAG 6 July 2020, as outlined in the report to the SPA Board 19 August 2020.</p> <p>No further evidence has been identified at this point relating to potential gaps in powers.</p>	
Public reporting on progress	Verbal report to SPA from IAG Chair 30 April.	Complete	Progressing the work programme and gathering additional evidence to deliver

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Work Stream	Actions	Status Update	Current Priorities
Public reporting on progress	<p>Written report to SPA board 20 May. Oral evidence to SPA from IAG Chair 20 May – questions arising from report.</p> <p>Oral evidence from the IAG Chair to the Justice Sub-Committee on Policing 9th June 2020.</p> <p>Written report to SPA 30th June 2020, and 19th August 2020; oral evidence from IAG Chair and Professor Susan McVie</p> <p>Webinar - public event with the SPA Board 30 July 2020</p>	<p>Complete</p> <p>http://www.parliament.scot/parliamentarybusiness/report.aspx?r=12687</p> <p>https://livestream.com/spa/30june2020</p> <p>https://livestream.com/spa/iagwebinar</p>	<p>against the Terms of Reference, for report to the SPA 30 September 2020; with an anticipated final report due November 2020.</p> <p>Consideration is being given to the delivery of a further Webinar event.</p>

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