



Select Committee on the Constitution

Uncorrected oral evidence: Constitutional implications of Covid-19

Wednesday 9 December 2020

11.20 am

Watch the meeting

Members present: Baroness Taylor of Bolton (The Chair); Lord Beith; Baroness Corston; Baroness Drake; Lord Dunlop; Lord Faulks QC; Baroness Fookes; Lord Howarth of Newport; Lord Howell of Guildford; Lord Sherbourne of Didsbury; Lord Wallace of Tankerness.

Evidence Session No. 18

Virtual Proceeding

Questions 243 - 255

Witnesses

I: Paddy Tipping, Chair of the Association of Police and Crime Commissioners; John Apter, National Chair of the Police Federation of England and Wales.

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Examination of witnesses

Paddy Tipping and John Apter.

Q243 **The Chair:** This is the House of Lords Select Committee on the Constitution. Today we are looking at the use and scrutiny of emergency powers during the pandemic. Our witnesses this morning are John Apter, who is national chair of the Police Federation, and Paddy Tipping, who is chair of the Association of Police and Crime Commissioners. Welcome to you both.

I will start by looking at the policing of all the coronavirus restrictions that have had to be put in place over the last few months, and get your general overview of how well the policing these restrictions has gone and what the basic challenges of enforcing these measures have been.

Paddy Tipping: Perhaps I will take an overview, and then John, who is much more hands on and on the ground will tell it as it is, as he always does. It has been an extraordinary time. It has been a long crisis. The police are used to handling crises, but this has gone on for nine months and will carry on into the future. The general view is that the police have done reasonably well. John, I guess, will talk about tiredness and fatigue among police officers. There has been quite an interesting discussion with the Home Office, the Policing Minister, and the Home Secretary.

The Policing Minister and the Home Secretary believe very strongly that the police's major focus should be on the fight against crime, reducing homicide and serious violence. If the last nine months have taught us anything, it is that policing is about much more than fighting crime. The emphasis the police have put on the four Es—engage, explain, encourage and enforce—right from the beginning has been the right way forward. We have always policed by consent in the United Kingdom, and chief constables were keen to engage with people right from the start rather than to enforce. I guess we will come to that point later on.

John Apter: Thank you for the opportunity to speak with you and members of the Committee on behalf of the 130,000 police officers we represent across England and Wales.

I agree with Paddy, and it has been said many times, that this has been the most unprecedented of times, not only for policing but for the whole country, and it is important that we recognise that. Policing has absolutely stepped up to the plate during this crisis. I could not be prouder of my colleagues and of the way they have reacted to the very rapid changes in legislation and some of the very unfair criticism in national media, accepting that we do not always get it right.

I think we can be forgiven, first because policing is complex at the best of times and we are very often dealing with people in very dire situations. There will obviously be times when it does not go as we would all want. However, in the main, my colleagues have performed in an incredible way, responding dynamically to an ever-changing landscape.

The way we police has changed fundamentally. Certainly early on, when the announcement on going into the first full lockdown was made, it was unheard of. I have been a police officer for now 28 years. I have never ever been expected to police in this way. There was a real concern—as Paddy said, we police by consent—about how this would work with the public.

I think the National Police Chiefs' Council's four Es approach was absolutely the right thing to do, but it has also come with its difficulties. With the ever-changing landscape of legislation, certainly early on in the crisis, the Police Federation was heavily involved in discussions with the National Police Chiefs' Council, the Home Office and wider government. Unfortunately, as time went on, those interactions could have been better. My personal engagement with the Home Secretary, the Policing Minister, Paddy Tipping and his colleagues and other leadership within policing has been really positive.

However, if you will allow me, I can give a couple of examples of concerns for policing, which were absolutely understood by the Home Office but did not seem to filter through to No. 10 and beyond. As the first lockdown was coming to an end, there was going to be the announcement that the pubs and other establishments would open up on 4 July. That message was delivered in such a way that it felt to my colleagues that it was almost a green light for party time, and there was so much concern about it in policing.

The announcement was then made ahead of 4 July, which was a Saturday. We asked the Home Office, the National Police Chiefs' Council and whoever would listen to us, "Please, please, please, don't relax the rules on a Saturday", especially given the warm weather. Unfortunately, our concerns were ignored. That weekend we saw alcohol and social distancing not mixing. That was predictable and was warned about. That was a real concern.

The same thing happened when it was announced that the rule of six was coming in on the last Monday in September. It was actually announced the week before. That, again, made people want to have bit of a last hurrah and get together with their friends and family. I completely understand why people would want to get together with loved ones, but it put immense pressure on the police, who by now were dealing with all the normal types of crime that we had not seen during the first lockdown, as well as with the pandemic. At the same time, assaults on police officers increased by 21% during lockdown. Therefore, the pressure was really on.

That being said, I could not be prouder of the way we stepped up. I think the vast majority of the public supported the way we policed and continue to do so, but it has not been without challenges and some of them, although not all, could have been avoided.

The Chair: Are you saying that the interaction and talking to police commissioners and Ministers was good up to a point, but that when it

came to some of the critical issues you have just been talking about—pub openings and that sort of interaction—coming to you for advice was just not there?

John Apter: Yes. I think we were being listened to. Certainly in conversations with senior Ministers in the Home Office, right up to the Home Secretary, there was a proper understanding of what we were trying to say, which was that the pressure was going to be on. Unfortunately, decisions were made, and maybe our concerns about opening some of the bars and restaurants, as the body that represents officers who were there picking up the pieces, were not as loud as some of the other concerns, because of the economic pressures. I completely understand that, but it did put an intolerable amount of pressure on colleagues over those peak times.

Paddy Tipping: I will make another point that John has not made. The crisis response was run by a Cabinet Committee gold group. There was no senior police officer on that group at the beginning. After quite a lot of pressure and some reluctance, Martin Hewitt, who is chair of the National Police Chiefs' Council, was put on the committee. It would have been helpful if, right from the start, the police view could have been fed into those strategic big-issue discussions.

Moving the focus slightly, the comment made by Ministers—not naming any in particular—that there should be greater enforcement and that the police should use their powers more directly runs counter to the legislative framework in this country. Decisions about operational policing are a matter for chief constables, and having a chorus coming from the Cabinet was not very helpful at times.

The Chair: We will come on to that in more detail now.

Q244 **Lord Faulks:** Thank you, Chair. Good morning to you both. I want to ask you about legal clarity. You, the police, had to decide some difficult things, such as whether something was legally enforceable or whether it was merely guidance. Did the police always have the distinction clear in their minds, and did they feel that the public, similarly, were also clear about this? Generally, how did you find the business of policing guidance? Can you help us with any other situations in which your officers have had to deal with guidance rather than actual offences?

Paddy Tipping: A good example is the social distancing rule, the two-metre rule. That is clearly guidance, but it is clear to me that the general public did not understand that. During the pandemic, calls to the police control room went up at one point by nearly 100%. As they put it here in Nottinghamshire, it was people dobbing each other in. There was a lack of understanding that the two-metre rule, for example, was not a matter for the police but was merely guidance. In fairness, early doors, right at the beginning of the pandemic, a few police officers really did not get it, but the vast majority did. There was an enormous effort—I speak particularly about Nottinghamshire—to try to ensure that police officers

understood the difference between what was enforceable and what was merely guidance.

We might come on to how police were informed about these things during our discussions.

John Apter: That is a really important point. No, the guidance versus legislation was not always clear, and it was certainly not always clear to police. It is understandable, but because of the speed of legislation being introduced, very often we would have situations where the legislation had been enacted but my colleagues on the ground had not had the guidance about was expected of them.

Can I give you an example? At the moment we have tier 2, tier 3 and so on. The legislation, the guidance, is here. There are 14 pages of rules, guidance and legislation on tier 3. Police officers are human beings. Of course, this is new legislation and there was always going to be a rub to get it right, to try to do the right thing by the public and save people from this horrible virus, but at the same time we had a narrative from some media whereby—my colleagues have used this expression time and time again—they were damned if they did and damned if they did not.

Sometimes in their interaction with the public the police were criticised for not being forceful enough. Then others would say, "You're being too heavy-handed". I lost count of the number of times I said on national media that social distancing was not legally enforceable, that police officers were not walking around the parks with tape measures, and that it was about trying to educate the public. Unfortunately, that message was very often lost and police officers were being criticised for not enforcing something that simply was not enforceable.

Lord Faulks: Do you think there was something wrong with the word "guidance"? This has emerged during our inquiry: whether "advice" or something more gentle—obviously distinct from a criminal offence—might have been used.

Paddy Tipping: There is a point there. We need to remember that the vast majority of people have acted reasonably and responsibly and that only a small minority have caused the problems. As John has said, the guidance both to the general public and, in the early days, to the forces themselves was not very clear.

John Apter: Let us not forget that police officers historically, up until this crisis, have been trained in a very different way and we have had to think differently about what has happened this year. Even the training we are doing virtually online has changed. The speed at which my colleagues have had to adopt, understand and deliver this legislation has been unprecedented.

I think the problem we have in society—it is an understandable one—is that we focus on where it went wrong but do not look at where we got it right. The vast majority of the time, not only did we in policing get it

right, but the public—the vast majority, the silent majority—have complied with the rules and the guidance. We focus—understandably, because we want to get things right—on the ones who either through naivety or not understanding the rules, or that hard core of people who no matter what the rules are will breach them. Unfortunately, that hard core seems to be increasing

I think the problem in this crisis has been that the legislation and guidance have come at different times. In normal times I think everybody I represent would understand the difference between guidance and legislation, but because there was an insatiable appetite to focus on it—certainly from the media, from some politicians understandably, and the public—there were some mistakes, but they were a tiny, tiny minority of the tens of thousands of interactions that my colleagues had every day and continue to have.

Q245 Lord Beith: I was very struck when Mr Apter said that he had never before been expected to police in this way. Is there a danger that we permanently change the relationship between the public and the police? That is in circumstances where a police officer, who is having to do something he never had to do before, asks somebody whether the exercise they are engaged in is legitimate exercise that falls within the law—I am talking now about law, not just about guidance—or is talking to someone about whether the people they are with are part of their linked family group or not, in which case they have fallen foul of one of the restrictions.

This is a very different kind of engagement with the public than police officers have been expected to have in the past. Is there a risk that it has a permanent effect?

John Apter: That is such an important point, which we must not ignore. I have been a police officer for a long time. I love being part of the policing family. I am proud to be part of policing, and I know many, many of my colleagues are. We are policing in a very, very different way than we have ever done before. I have spoken to many colleagues who have a real concern that the style of policing, or what we are expected to do and the questions we are expected to ask, could damage our relationship with the public.

I think the vast majority of the public understand that we are in a really difficult place and we are trying to do our best, but I do think there will come a point—we need the help of everybody in this, from government, from you, from the media if they are willing—to almost recalibrate that relationship between police and the public. It is certainly not strained to a point where it is broken beyond repair. You look at the television screens and see some of the protests and you would think that it is, but it is not. The vast majority of the public is still with us. However, there is always that risk.

There is a concern with what we are going through at the moment that with the introduction of a vaccine—we all hope and pray that it will do

what we hope—some people will think that the problem is over. It is not. My colleagues are still out there policing this pandemic and doing the best they can, and the NHS is still under pressure. We cannot sit back and relax. However, we have to make sure that that relationship, which is so fundamentally important, is protected.

Paddy Tipping: Sir Alan, I think you raise a very important point. Again, I am keen to stress that the focus has been on the four Es: engage, explain and encourage rather than enforce. Right from the beginning, right across policing, colleagues were clear that they did not want to change the nature of the relationship.

I do not think that public attitudes have changed a great deal. We surveyed people here in Nottinghamshire who have had contact with the police fairly regularly, and just over 50% of people were satisfied with the way the police have handled the situation. Just 13% were not satisfied and there were a lot of “don’t knows”. However, again, I think that careful, thoughtful policing has been the keynote throughout the pandemic, and I would be very surprised if there was a change in that relationship in the long term.

Q246 **Lord Sherbourne of Didsbury:** Both our witnesses have highlighted the problems that arise from the complexity of the legislation, the fact that it has been very fast moving, and the problem of the distinction between guidance and law.

I want to ask a very practical question. This has obviously presented a tremendous challenge in getting the police on the front line to understand the rules—what the law is, what the guidance is—in such a fast-moving situation. How have you communicated this and got this information to the police on the front line, and how difficult has it been? With the experience and benefit of hindsight, what do you think could be done better in a future situation?

Paddy Tipping: The regulations changed rapidly. There is no point having discussions if we are not open and straight with people. Often, the regulations changed and the police had not had the advice. The advice came principally from the National Police Chiefs’ Council, aided and helped most particularly by the College of Policing, which produced a good deal of literature on what should and should not be done.

However, it was very often not in the hands of police officers at the right time. It often came very late, and sometimes it did not come at all until after the new regulations were in place. As John has said, the regulations are large and complex. Most police forces have used new technology—used mobile phones, put things on apps that are in our officers’ hands—but the lack of forewarning of changes to the rules has created quite a difficult situation.

John Apter: On a very practical level, police officers generally hear about the change in legislation and guidance, as Paddy says, through the College of Policing with PowerPoint presentations on shift briefings, and it is sent to them via email. A number of officers told me that they were

learning of changes in legislation through the media, because obviously with shift patterns not everybody is at work at the same time.

This is my plea to the College of Policing, the National Police Chiefs' Council and the Home Office. Early on in this crisis we were very heavily engaged with the messages that were being delivered to our colleagues. Our message was really clear. Of course we had the legislation, which is complex at times, but the guidance did not have to be as complicated.

It is about keeping it as simple as possible and then we can build on that. Early in the crisis that was very much the method that was used. As time went on, I do not believe that we were listened to as much as we could have been, and the guidance then became incredibly complicated. What police officers on the street do not have is time. They are up against it, especially at the moment when all levels of crime and demand have risen to pre-crisis and pre-pandemic levels. It is a challenge.

Do I think we have adapted well? Yes, I do, I really do. However, it is not perfect; it is far from perfect. I genuinely do not know what we can do to make that better. Better use of technology might help, and it would be ideal if the introduction of legislation was slowed down, but we are reacting to a crisis. Therefore, it has been very challenging and police officers were out on the street very often without the guidance they needed to manage the legislation versus the guidance. It has been a challenge.

What has underpinned everything that we have done is the four Es, as has been said. That really has prevented an awful lot of pressure on the relationship between my colleagues and the public. However, the rapid changes in legislation have been very problematic.

Q247 Lord Sherbourne of Didsbury: If I was a police officer on the ground and I heard the news, heard the Prime Minister and saw a press conference, how would I receive the information about what the rules were? How would I get that information?

John Apter: Police officers who are out and about—response officers primarily, but not exclusively—would get the information on shift briefing. Generally when you start work you have a briefing with your team, your supervisors and your sergeant, and there will be PowerPoint presentations, which will also be sent to you via email. That is as simple as it can be. In some cases, not all, there will also be more and more information sent out through the College of Policing via apps. However, officers need to be fed the information in the shift briefings. They do not always get them, but for an officer on the street that is primarily how they will get them.

Paddy Tipping: In addition, most police forces have their own intranet. All the advice and all the regulations are on there. Officers are invited to ask questions because it is a complicated area. Most officers now have the benefit of handheld devices and a lot of information can be passed to them in that kind of way.

The Chair: It must be time consuming for individual officers and detract from the amount of time they can be out on the job.

Paddy Tipping: That is exactly right. John made the point earlier that crime levels are now back to where they were before the pandemic. In the early days of the lockdown, crime was running at roughly 20% less than the norm. In effect, the police had time to do more things, so a lot of warrants were served during that period and the number of people arrested for drug offences went up. There were some benefits from reduced crime during the lockdown, but it was made up for with other duties.

Q248 **Lord Wallace of Tankerness:** I will perhaps explore more about how you are getting information through. It has been very interesting to learn how it works. You have talked about the speed of legislation and the changes in legislation.

We have talked about how it gets to the police officer on the front line. How does it get to those within the police authorities who are having to prepare that guidance and that information to go to the front line? Have Government given time for it to feed through? Let us take the example of last week when the national lockdown ended and we moved to tiers 2 and 3. How much time was given to prepare, given, as Mr Apter pointed out, that there are 14 pages of rules for tier 3? I am interested to know what the timings are at different levels.

As a further point, Mr Apter mentioned very early on that announcements have sometimes been made too far in advance, such as on the opening of the pubs and the changes to the rule of six in September. Is it a problem that public announcements are being made without the detail being fed down to those of you who are having to implement it?

John Apter: When we get the notification, if we are lucky there are generally about 36 hours between the legislation being discussed, finalised and enacted and coming into place. However, we will not then get the guidance until maybe a day or two later, which causes the issues.

I know that the National Police Chiefs' Council, in discussions about the legislation, will sometimes look at legislation from the perspective of a police officer on the street: "Parts of that are simply unenforceable. We're asking officers to perform the impossible". That can be a real issue as well. Then, because of the way it is reported on, some of the good legislation—to a police officer, obviously all legislation is good—which is easier to enforce and explain to the public, gets lost.

However, after the announcements on the rule of six and the date of 4 July—I am being selfish now on behalf of policing—I, along with many of my colleagues, predicted the pressure that would put on policing for that weekend, which is exactly what happened. I do not dismiss the need for the economy to start moving, but it would be wrong of me not to highlight the pressures it puts on policing when announcements are made that create public order incidents.

I think 4 July was labelled “Super Saturday” by the press. I policed that weekend. I went out in uniform and it was manic. When the public drink, understandably social distancing goes out of the window. When police officers are seen as the villains of this pandemic—sadly, we have sometimes been painted like that in trying to keep people safe—it can ignite a public order situation. All we wanted in that time period was a bit of understanding from the Government that when these announcements are made there are consequences for policing. That was certainly the case here.

Paddy Tipping: Still focusing on Super Saturday, the press also called it “Freedom Day”, and John has rightly pointed out the consequences of that.

Lord Wallace, you asked about how things happen in a force. The police are used to crises and handling difficult situations. They those happen they normally set up what is called a gold group, a command group, with a senior officer in charge. In Nottinghamshire, the senior officer was Assistant Chief Constable Kate Meynell, who has done a remarkable job. It has taken a large proportion of her time, but she ran a regular daily blog that was available for the force. On a number of occasions in that blog she said that new regulations were coming in, but, “I can’t tell you what the details are at the moment. I will have to come back to you”. That is the kind of difficulty that the force has faced. We are being asked to police an uncertain and difficult situation.

Lord Wallace of Tankerness: I have huge sympathy for the points you have been making, not least about so-called Super Saturday. Do you think that any lessons have been learned from that? There was also the September rule of six. Do you feel that that message got through and that if we were in a similar situation again it would be handled more sensitively?

The Chair: Indeed, Christmas.

Paddy Tipping: There has been a lot of discussion about Christmas and policing Christmas. Over the months, the Government have woken up to and been more receptive about the idea of the police being involved in these discussions at an earlier stage. When there was some talk about Christmas being relaxed, there were a number of articles and quite a lot of controversy about the police knocking on people’s doors on Christmas Day. Look, that is not going to happen. People create unrealistic expectations of the police.

John Apter: I could not agree more. Some of the commentary made about Christmas in particular, and we have not even started talking about New Year, puts pressure on my colleagues who will be policing around Christmas. For many families, Christmas could be a very emotive day because many of them might not have seen each other for a long time. My colleagues—I have said this before and will repeat it—have been vilified by some and are now being painted as these individuals who are going to be knocking on doors on Christmas Day to count how many

people are sitting around the dinner table. It is unfair and it adds a level of pressure to my colleagues who are already feeling very battered, bruised and tired, like many others through this pandemic. It certainly does not help the narrative. Yes, it has been a very challenging time.

Q249 **Baroness Drake:** On the issue of the speed or the timing with which police can get guidance, when National Police Chiefs' Council gave their evidence to the Commons Home Affairs Committee, they said that they had a better experience in the preparation of tier 2 and 3 regulations, that they were consulted on the regulations, and that they had more time to draft up guidance to the police.

Was that your experience? Did you see a material difference in respect of the guidance and preparation for tier 2 and 3 regulations? Did that trickle down to your experience?

John Apter: Certainly those we represent felt no difference, except that there were constructive conversations going on. But there was still that time lag and that pressure when the tiered situations were announced. The tiered situations add a different range of complexities and pressures on policing. Some forces have different tiers within their own forces, so we have to police them a different way. I do not doubt that the National Police Chiefs Council had a more constructive dialogue, but unfortunately for the Police Federation, which represents 130,000 police officers who are at the forefront of this, that dialogue has not been as full on as it could or should have been, which is disappointing.

The Chair: Paddy Tipping, part of your area has been in tier 2 and part of it has been in tier 3. I think you are all in tier 3 now, but you have an experience of differences at different times.

Paddy Tipping: Yes, that is the case. Replying first to the original question, relationships and communications between Ministers, officials and senior police officers have improved over a period of time. I do not think that is in question. But, as John has rightly asked, has that translated down to the ground? No, I do not think it has, to be perfectly honest.

I smiled a bit about the evidence the NPCC gave to the Home Affairs Select Committee. It was interesting that the chief constables, when asked directly what the rules were in their area on that particular day, had some difficulty in explaining them. That reflects the problem.

There has been enormous controversy here in Nottinghamshire, and I guess it will occur again in the Commons on 16 December when what people call the granularity of the restrictions comes up. The police's very strong view is to have wider areas if possible. Here in Nottinghamshire the notion of having different tiers in different district councils has been quite difficult and people are very strongly against it. John has stressed the political element in some of these discussions and I think we will face another hard discussion on 16 December.

John Apter: Chair, would you allow me just to add one quick point on this? I am passionate about the Police Federation being involved in these discussions at a local and national level, because we are there to help and support. It is not about being obstructive or difficult. Whether it is the legislation or guidance, it is about reaching land more effectively with our colleagues.

We have a branch of networks of federations across England and Wales, every one of which is well connected and working closely with the chief officer teams and the PCCs or the commissioners or the mayor's offices. We are there to be a constructive ally, working together in this unprecedented crisis. That is why I am so passionate about this. It is not about being obstructive or difficult; it is about being positive and making sure that we can land these messages as well as we can in the circumstances.

Q250 **Baroness Corston:** Looking to the future, should the Government be doing anything differently when notifying the police and the public at large of the new measures and ensuring that they are clearly understood?

Paddy Tipping: One of the points that John and I have been keen to make to you is about having good notice of changes. Lessons have been learned during the past nine months and better communications are taking place between officials, Ministers and senior police officers. The point that John will make, and he always makes it very strongly, is whether it will gravitate right down to a local level. That is where we need to do some more thinking.

John Apter: I completely agree. Sometimes in the busyness of a crisis, simple things such as who to engage with and who to talk with get forgotten. At the Police Federation we have a constructive dialogue with the Home Office, with government, with chief officers. We might not always agree, but generally we will want the same thing, especially throughout this crisis.

The lessons that I would like to see learned from this certainly include the body that represents police officers—I am sure the Police Superintendents' Association will feel the same—not just being an afterthought in some cases. It is about being brought into that circle of trust about what we are trying to achieve, how we want to achieve it and what our view would be on making sure that it would land with our colleagues, who, after all, are the ones expected to police this 24/7.

Q251 **Baroness Fookes:** I was a bit shocked when I gathered that the regulations and the guidance to them could be several days apart. That seems particularly worrying for anyone at the front line. Could information on what the front-line officers need to do be presented to them more rapidly and perhaps more simply?

John Apter: The word to use there is "more simply". I am not naive; legislation is never simple. But sometimes we overcomplicate the

guidance, which is to the detriment of all of us trying to get out there and police this pandemic.

Lessons are being learned as we move along and it is far from ideal that the legislation and the guidance are delivered so far apart, because that puts pressure on my colleagues. I do appreciate that this is an unprecedented time. It is not the norm, which is a good thing. However, simplicity is the key. It is not about watering down guidance to the point where it becomes irrelevant, but there is a balance to be struck.

That is the message that the Police Federation has been giving throughout the pandemic. Early on, I think we were in a better place with that, but as time has been moved on it has been a bit overcomplicated. Maybe that is because the legislation, the tiering system, the geographical boundaries and the devolution and so on have made it more complicated, but that does not help my colleagues on the ground.

Paddy Tipping: John has made the essential point that the simpler the message, the better it is. Right at the beginning of lockdown, the message "Stay at home. Protect the NHS. Save lives" was one that we all understood. There was unanimity between policing it and the general public.

As we have moved forward, the messages have become more diffuse, more difficult and much harder for my front-line officers to police. Simplicity is a watchword, and the situation on a couple of occasions when the guidance came out some days after the legislative changes were introduced was not acceptable. We have moved on from that and we are in a better position now, but let us be clear that at the time it was not good.

Q252 **Baroness Drake:** I recognise that the evidence we have reveals that in England police forces have used their coronavirus enforcement powers significantly less than in many comparable countries. Clearly that is consistent with our police forces' emphasis on encouraging and educating the public. However, when it comes to the use of enforcement powers, most if not all of the charges brought under the Coronavirus Act have been brought incorrectly, which leads me to two questions.

First, what factors, in your view, led to wrongful arrests and charges under the coronavirus legislation?

The Chair: Paddy Tipping, I do not know how the cases were spread geographically. You may not have had any, but do you want to comment on it?

Paddy Tipping: There have been very few cases here in Nottinghamshire. There was an issue with the £10,000 fine for large parties. You will remember that the first £10,000 fine was issued here in Nottinghamshire at a student party. I am sorry to say that it was not the last. At one point, the NPCC issued instructions that no £10,000 fines were to be issued. That guidance lasted for only a very short period of time. Those fines are now being put back into effect on the proviso that

the officer issuing them makes it clear to the recipients that they have the right to go to court.

One of the issues before us is that very few cases have gone to court and none are for £10,000 here in Nottinghamshire, and I do not think anywhere in the country yet. There is a related question about the number of fixed penalty notices issued. Different chief constables have taken different views in different parts of the country. Here in Nottinghamshire the number of fixed penalty notices issued has been relatively low, not the lowest but in the bottom 25%, but in other parts of the country, North Yorkshire for example, the number issued has been a lot higher.

Clearly this is a matter for chief constables, but it does raise questions about legitimacy and comparisons across the country.

John Apter: It has been unfortunate. Any error in the way rules have been enforced is regrettable, but some understanding should be given. Misunderstanding about the rapidly changing regulations has been a concern. Also, there are differences between the devolved Governments. Some aspects are enforceable in one part of the country, others are not, and some aspects of that have been muddled.

It can be as simple as the wrong box being ticked on a form when it comes to the Coronavirus Act and other legislation. Legislation is complex at the best of times, and errors may be due to the fast pace at which it was introduced. Where errors have been identified, such as in relation to the £10,000 fines and so on, which Paddy mentioned, there has been a pause, a review, and then we have started again.

In the scheme of things, the number of errors has been relatively small, although regrettable of course. The last thing my colleagues want to do is add to any confusion among members of the public, but they have sometimes been put in a no-win situation by the volume of legislative change that they have been expected to get their heads around in a very short space of time, often with the guidance that they depend upon coming later in the week.

Q253 **Baroness Drake:** Charges brought under the regulations have been less error prone. Clearly the big errors have been occurring under the Coronavirus Act. Do you have a view on what the Government, or indeed the police authorities, could do to prevent this situation arising in future? The Act was clearly misunderstood so that almost all, if not most, of the charges brought under it were incorrectly brought. What do you think the Government and indeed the police authorities could do?

Paddy Tipping: I think it is the point that we have made throughout this discussion: that having good communication, good notice, a chance to challenge things before they are introduced would be the right way forward. It is manifestly wrong that police officers are being asked to issue fixed penalty notices when the guidance and the professional advice behind it is not available.

John Apter: Paddy has summed up exactly what I was going to say. It is also a matter of simplifying the legislation, trying to dovetail it into other parts of the existing legislation rather than perhaps having to create new legislation that we do not need. We need to be as simple as possible. It is not always achievable, but we can certainly do better than what we have done so far.

Q254 **Lord Howarth of Newport:** It is a hallowed part of our constitution that we do not have a national police force and that chief constables are responsible for operational decisions in their own areas. This has led to a good deal of local variability, whether it is in the policing of members of public taking exercise or, much more significantly, policing the rising incidents of domestic abuse during the pandemic.

What are your thoughts on this variability? Is it an inevitable consequence of that decentralisation of responsibility for policing that we regard as a very important feature of our liberal constitution, or is it quite concerning because of the problems it causes for the police in understanding their specific responsibilities, for the public's perception, and for relations between the public and the police?

Paddy Tipping: My colleagues always tell me, and you will know this given your own background, that things are different in Wales. In Wales, the four police forces work more closely together and there has been greater contact with the Welsh Government. There has been more uniformity in Wales than anywhere else in the country.

It is inevitable that the police will function in different ways in different parts of the country. That is part of our constitution. Is it a major issue, given the scale, if you compare the number of fixed penalty notices issued across the country? I am not sure that the variation is so wide that it causes concern, but I know that Martin Hewitt, the chair of the National Police Chiefs' Council, has regularly talked with chief constable colleagues about this, not issuing instructions but trying to get a degree of consensus about the way forward.

John Apter: In the 43-force model we have across England and Wales, localism is very important. There have always been discussions and debates as to what is right and what does not work. The view of the Police Federation, certainly early on in this crisis, was that there were always going to be differences in forces in the 43-force model, but in a time of national crisis such as this, where so much pressure is focused in policing and law enforcement, it would probably have been easier—we do not give ourselves "easier" to work with—for the National Police Chiefs' Council to have been able to insist rather than advise.

There will always be differences. As Paddy rightly says, Wales has worked really well with the forces in Wales, but there are differences, whether we are comparing Kent with Merseyside or elsewhere, and the differences can be the polar opposite of the style of policing we need. However, there are certain things that we need to be more consistent about in times of crisis, and I would have liked to have seen that emphasised a bit more.

Q255 Lord Howell of Guildford: What we have heard is utterly sensible and realistic. Can we take it that if the Police Federation is brought properly into the circle of trust, to use your phrase, they would be opposed to such propositions as all track and trace information on people's devices being handed to the police, which was one suggestion, which would create impossible policing judgments and difficulties, or pitching things a little wider?

One of the latest horror stories running around is that remarks within the privacy of the home should somehow, if captured, be a matter for police investigation. That again raises the prospect of impossible situations for the police. Will the Police Federation stay in the circle of trust and, please, take a very practical view on these matters, as you have taken on everything else?

John Apter: Since I have been in post, we have had a constructive relationship with the Home Office officials and the National Police Chiefs' Council. That does not mean to say that we will always agree. Sometimes we disagree fundamentally, and we will challenge. The same could be said for this. Forgive me, I do not know the details of some of the examples you give, but in times of crisis, and we have done this during this pandemic year, of course the Police Federation has looked at things that are in the national interest, which are clearly in the interests of our members, and we have done everything we can to make sure that the relationship between policing and the public remains intact.

If there are things that we might be fundamentally opposed to, of course we will challenge in a constructive way, but we have to be within the discussion to be able to disagree or not.

The Chair: Paddy, is there anything you want to say about police and crime commissioners' relationships as a way of rounding up your contribution?

Paddy Tipping: Police and crime commissioners are an interesting and eclectic bunch of people. I was smiling when the question was asked about speaking for the federation. John, as chair of the federation, knows that it is not always easy for him to speak with one voice. That is the same for police and crime commissioners. We all come from different places. But, look, we have learned things from this crisis. It has been really difficult, but the way it has pushed us to move toward new technology, realising the importance of neighbourhood policing, and the need for partnership working, are all positive things that have come out of it.

You may not have caught up with this but, this morning, HM Inspectorate of Constabulary issued its first letter about the policing of Covid. The final report will not be available until January, but it paints a very positive picture of what the police have done. Sure, it highlights some difficulties, but it reflects the fact that we have all have tried to work very hard together with the wider community to help us get through this. I think there will be a sigh of relief when we finally all get through it together.

The Chair: Thank you very much indeed. That is a good note to end on. Thank you for your evidence this morning. We have probably kept you slightly longer than anticipated, but that is because you have had a lot to say that we wanted to hear. Thank you.