

Justice Committee

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Rt Hon Suella Braverman QC MP
Attorney General
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16 September 2020

Dear Attorney General

Thank you for your letter of 25 August providing further information about some issues raised during your appearance before the Committee on 21 July.


Your response included data on fixed penalty notices issued under public health regulations. Analysis published by the National Police Chiefs' Council indicates that a disproportionate number of people from BAME backgrounds have received FPNs during this period. In addition, the significant variation in the number of FPNs issued by different police forces has raised questions on whether Coronavirus laws are being enforced correctly across the country. It will be important, therefore, for the Government, police and CPS to learn lessons from the use of FPNs during this period, including understanding where mistakes have been made and why some groups might be receiving a disproportionate number of FPNs.

The National Police Chief's Council figures state that 18,669 fines were issued by police forces in England and Wales between 27 March and 20 July. Your letter states that 8,954 (8,325 in England, 629 in Wales) have not paid their FPNs and therefore fall to be considered for prosecution. This represents over 50% of the total number of FPNs issued and a large volume of additional work for the criminal justice system when it is already under considerable pressure. The Committee would like to know how the process of reviewing each of these 8,954 cases will inform the Government's approach to creating further offences that can be punished by way of an FPN? If any errors are identified during the reviews, or in any contested cases, then these should be publicly acknowledged and debated.

We are also concerned by the number of new offences subject to an FPN that have been created by secondary legislation as part of the response to the Pandemic. Most prominently, The Health Protection (Coronavirus) (Restriction on Holding Gatherings and Amendment) (England) Regulations 2020, laid on 27 August and coming into force the following day, which include a provision for fines of £10,000 to be issued. For such a severe fine to accompany an FPN is unusual and it is important to recognise that such a penalty could have life-changing consequences. The latest regulations further restricting gatherings of more than six people, which came into force on 14 September,

are likely to lead to more FPNs being issued. We accept that the Government has needed to respond quickly to the virus. However, the creation of offences that carry significant financial penalties by statutory instrument, rather than by primary legislation, with limited opportunity for scrutiny or debate is troubling. It is a basic rule of law requirement that Parliamentarians should be able to consider and debate significant new criminal offences before they come into force. Can the Government confirm that it will provide greater opportunity for Parliamentary scrutiny of secondary legislation of this nature going forward?

Yours sincerely

A handwritten signature in black ink, appearing to read 'Rob Neill', with a stylized flourish at the end.

Sir Robert Neill MP
Chair
Justice Committee