

## **Home Office preparedness for Covid-19: Response to call for written evidence.**

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## Executive summary:

The authors are a team of researchers based at Keele University and Oxford University whose work focuses on a wide range of policing and security related issues. Prof. Clifford Stott and Prof. Mark Harrison are participants in the Behavioural Science sub-Committee (SPI-B) of SAGE and co-chairs of the SPI-B Policing and Security sub-group. Alongside Dr Matt Radburn, Dr Arabella Kyprianides and a wider team of several Postdoctoral researchers, they are working on a series of collaborative UKRI (ES/V005383/1) and ESRC (ES/R011397/1) funded projects that focus on policing and the wider Civil Contingency response to Covid-19. Our paper focuses on *policing* and considers: *the extent to which the Home Office and its associated bodies have learned lessons and improved the policy and operational response as the pandemic has evolved*. Through our ongoing research programme, we have identified several relevant key findings which are outlined below and are followed by some important theory and evidence-based conclusions and recommendations.

Based upon research evidence we conclude:

- The Covid-19 pandemic created unprecedented challenges for policing. The emergence of the 4E's Engage, Explain, Encourage and Enforce guidance by the National Police Chiefs' Council and the College of Policing provided an important strategic framework building upon an engagement approach that fostered consent among the public.
- The 4E's approach set out a clear evidence-based framework through which police officers could interact with the public in ways that were viewed as just, proportionate and legitimate. It built upon the broader public discourse within the original lockdown that 'we're all in this together', allowing officers to emphasise that their actions were for the public good, for 'us', for the collective goal of saving lives and the NHS.
- The ability to effectively implement this engagement-oriented strategy, particularly where enforcement was necessary, was hindered by the gaps between the legislation and regulations, the guidance, and conflicting statements made, in particular, by politicians to the public via the media.
- Our research demonstrates that while supportive of the 4E's approach, there appears to have been an increasing push towards an 'enforcement first' policy by the Home Office. The policy environment belied the complexity of delivering policing locally, at times undermining police efforts to manage that complexity dynamically. In the process, dangers emerged of damaging police legitimacy across the longer terms that may have encouraged forms of public resistance.
- Police officers have found themselves caught between the national guidance to engage first and only to enforce as a last resort, and pressures to punish 'rule breakers' from Ministers, other politicians, the media, Chief Constables and/or sections of local communities. They recognise that a need for enforcement does exist but also that proportionality is important to maintaining police legitimacy and public trust and confidence, particularly among BAME and marginalised communities.
- Our research suggests that Home Office policy should support local neighbourhood policing teams (NPTs) who are well positioned to gauge the specific needs and requirements of the communities that they police. NPTs can 'scaffold' pre-existing or emergent support groups oriented towards building adherence to Government

guidance by helping vulnerable people navigate the challenges presented by Covid-19.

### Context and purpose:

1. This submission focusses specifically on 32 interviews that we have conducted with operational, tactical and strategic police officers conducted between March and December 2020, as well as a series of research observations of public order operations which were set up in response to various types of public assemblies during the pandemic.<sup>1</sup> We also draw on our team's experience and expertise through their role of regularly advising the Home Office with relevant research and theory through their ongoing participation in SPI-B and its associated Security and Policing sub-group. Accordingly, our focus is on *policing* and considers: *the extent to which the Home Office and its associated bodies have learned lessons and improved the policy and operational response as the pandemic has evolved*. Through our ongoing research programme, we have identified several relevant key findings which are outlined below and are followed by some important theory and evidence-based conclusions and recommendations.

### Body of evidence:

2. The strategic '4Es' guidance<sup>2</sup>, was jointly issued by the National Police Chiefs' Council (NPCC) and the College of Policing (CoP) in response to the pandemic, following the announcement on 23<sup>rd</sup> March 2020 that strict control measures were being imposed. The 4Es guidance document suggests that the police should, in their interactions with the public, first look to *Engage* with people in conversation, then *Explain* the importance of following Covid-19 regulations before *Encouraging* those not adhering with the legislation to do so. Only if this has failed should officers *Enforce* through the issuing of Fixed Penalty Notices (FPNs).
3. In so doing, it operationalised the Peelian principle of 'policing by consent' by providing a theory and evidence-based<sup>3</sup> working model for officers to interact with members of the public in ways that are likely to be viewed as just, proportionate and legitimate. This is important since the evidence suggests that public compliance with public health guidance, government guidance and legal regulations is driven by a belief that the police are legitimate<sup>4</sup>.
4. Research also indicates that UK adherence to the original 'lockdown' laws was driven by a sense that 'we're all in this together' rather than fear of fines or other forms of punishment<sup>5</sup>. The legal framework functioned to create adherence by signalling the importance of avoiding specific behaviours rather than driving compulsion through creating deterrence. In line with this, the 4Es guidance explicitly stresses the need for officers to emphasise that their actions are in the public interest, for 'us', for the collective goal of saving lives and the NHS.
5. The 4Es strategy was well received by the officers we interviewed as it defined and legitimised the approach that many had already begun to develop. However, our data suggest that the ability to effectively implement this engagement-oriented strategy was hindered by a number of important factors. For example, the call handling staff that we spoke to felt that they were initially 'fumbling around in the dark' due to a lack

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<sup>1</sup> This work is supported by two research grants from the ESRC: ES/R011397/1 and ES/V005383/1. For more information on these projects visit <https://gtr.ukri.org/projects?ref=ES%2FR011397%2F1> and <https://www.sussex.ac.uk/research/projects/groups-and-covid/> respectively.

<sup>2</sup> See: <https://www.college.police.uk/What-we-do/COVID-19/Documents/Engage-Explain-Encourage-Enforce-guidance-Wales.pdf>

<sup>3</sup> In particular, the 4Es approach sought to operationalise the key tenets of Procedural Justice Theory and its associated research. See: <https://www.jstor.org/stable/pdf/j.ctt1q1crtm.10.pdf>

<sup>4</sup> <https://www.annualreviews.org/doi/abs/10.1146/annurev.psych.57.102904.190038>

<sup>5</sup> <https://blogs.lse.ac.uk/politicsandpolicy/lockdown-social-norms/#Author>

of guidance around how to respond to the various and intensive Covid queries and calls for service from the public. There has also been continued frustration aired by officers about being inadequately forewarned about incoming changes to the legislation with the effect being that they have not had the time to plan their response effectively. Several found themselves learning about changes at the same time as the public via the Downing Street briefings, leaving them unprepared to deal with the implications of these changes operationally. Accordingly, officers suggested that it was often necessary to implement an unofficial 'grace' period at the local level when new regulations came in – both to allow time for the public to get used to the new rules and for the police themselves to be able to catch up with the changes<sup>6</sup>.

6. There have also been issues in some forces whereby the police were caught in between the national guidance stipulating only to enforce as a last resort and pressure for swifter punishment of 'rulebreakers', whether through statements from Ministers, other politicians, the media, Chief Constables or sections of local communities. Two Derbyshire based incidents highlight this issue: the first being police-released drone footage of walkers in the Peak District, where the force was castigated nationally for being heavy handed, whilst local sentiment was very supportive of the force encouraging 'outsiders' to stay away and not bring the virus into their area; the second was the case of two women who were issued with tickets (later withdrawn) having each driven about 5 miles to meet up for a walk, which was subject of local and national criticism. Local sentiment supporting enforcement appears to be much stronger where transgressors could be considered 'outsiders', such as people travelling outside their area for exercise, 'raves', or parties.
7. Managing the very high levels of calls from members of the public to report on neighbours was a major problem the police needed to confront. This demand management issue relates to wider accountability dynamics whereby officers felt pressure to regularly reassess their 'tipping point' to move to enforcement action because of the input of multiple 'audiences' including the media, the Home Office, the NPCC as well as managing the often-competing legitimacy demands of different specific local communities. For instance, some officers we spoke to suggested that there was intense political pressure relating to the published NPCC enforcement tables (i.e., tables specifying the number of FPNs administered by each police force). There was a demonstrable reluctance to be too high or too low on this list, with forces preferring to be in 'mid-table mediocrity', avoiding accusations they were being 'too hard' or 'too soft' within high profile discussions on non-compliance and enforcement. With regards to FPNs, it should be recognised that the police have made sparing use of enforcement when compared internationally.<sup>7</sup>
8. However, data released by the NPCC does show that the police enforcement that has taken place has been disproportionately applied to BAME citizens<sup>8</sup>. Many BAME communities have limited trust and confidence in policing, built upon sustained disproportionate use of 'stop and search', 'use of force' and many other factors. Should this disproportionality remain unaddressed, it will continue to diminish what trust and confidence in policing that remains in BAME communities and could function to increase the likelihood of serious disorder.<sup>9</sup>
9. The liberalisation and loosening of restrictions from May onwards meant that officers often felt that enforcement was increasingly difficult if not impossible, except in circumstances of flagrant violation.<sup>10</sup> Such violations were often if not invariably

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<sup>6</sup> An apparently effective way of producing concise and clear updates to officers internally to avoid confusion was the 'anointment' of what was described to us as 'COVID Kings and Queens'. These were Chief Officers who were the 'face and voice' of all broadcasts and messages around any legal or operational changes relating to the pandemic. This approach served as a one-stop resource for important information through regular bulletins. It also provided an opportunity for Chief officers to reinforce the importance of the '4Es' policing by consent graded tactical approach.

<sup>7</sup> <https://www.statista.com/statistics/1110584/fines-controls-of-police-containment-coronavirus-france/>

<sup>8</sup> <https://news.npcc.police.uk/releases/independent-analysis-of-coronavirus-fines-published>

<sup>9</sup> <https://academic.oup.com/policing/article/14/3/569/5812788>

<sup>10</sup> For example, the Chairperson of the West Yorkshire Police branch of Police Federation tweeted on the 10th May: "Policing

- large-scale public gatherings involving communities where perceptions of police heavy-handedness could be extremely damaging or even provoke disorder.<sup>11</sup>
10. With the regular and sometimes rapid revisions to the Government guidance and legislation there was the issue that some of the subsequent guidance provided by the College of Policing was essentially out of date as soon as it was published. However, some police officers we interviewed said that it was not so much the changing legislation that was the primary issue as it was relatively easy to inform officers via briefings about what people can and cannot do. For them the issue for 'frontline' officers was the ever more complex set of exemptions that sat alongside the laws. For example, how were the police meant to validate the composition of support bubbles or medical reasons for not wearing a face covering in supermarkets?
  11. As new legislation or regulations were enacted there was often a gap between what the legislation defines, what the guidance sets out and the statements of Ministers, other politicians and at times police leaders.<sup>12</sup> This is best illustrated by the recent 'stay at home' requirement where the law requires citizens to stay at home except for specific reasons, including to exercise. What is allowable when leaving your home for exercise is not defined specifically within the legislation but has been commented upon by several senior politicians stating their view on what was reasonable travel, whilst a senior police leader said no travel is acceptable. Quite what is really allowed by the law remains uncertain, despite some chief constables asserting that the rules are clear, obey them or expect to be prosecuted. This ambiguity is avoidable with clearer drafting of the legislation and better coordination of media statements by politicians and police leaders, which would allow the public to more easily comply with the law and officers to enforce transgressions with confidence.
  12. By mid-August onwards there was a shift in Home Office strategy towards an increasing readiness for police to move to enforcement.<sup>13</sup> Officers spoke of the heavy burden that this placed on them to use their discretion 'on-the-ground' due to the ambiguous legislation that they were being encouraged to enforce more rigorously. For instance, officers talked about having to risk assess public gatherings and to make judgements about what 'crosses the line' of acceptable behaviour balancing this against the risks that police enforcement would create. These judgements often drew on a notion of intentionality and whether or not individuals were 'wilfully' breaking the rules as well as the extent to which infection risks were being mitigated (e.g., social distancing, gathering already beginning to disperse). For example, in discussion around assessing the risk against the need for enforcement comparisons were drawn between a crowded house party of 50 people compared to a socially distanced outside barbeque of 7 people in breach of the prevailing 'rule of six'. There were also accounts of officers using alternative, established 'non-Covid' legislation to break up groups of people in breach of the Covid-19 laws. It was explained to us that this form of action presented fewer 'risks' since there were fears that Covid-19 related FPNs would be overturned (with some justification).<sup>14</sup>
  13. By October officers described being in the 'worst of both worlds' – pre-Covid crime patterns and therefore demand had returned having ebbed away during the initial national lockdown in March. At the same time, they were now having to enact additional COVID restrictions. One of the issues of the push towards enforcement was the increasing likelihood of more coercive forms of police action and what this meant for staff absences and safety. By taking punitive forms of action, officers were

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*Covid 19 has become impossible after today. My colleagues cannot Engage, Explain, Encourage or Enforce such woolly rules. This is now down to the public to Police itself. Please let's avoid a second spike".*

<sup>11</sup> <https://policinginsight.com/features/analysis/policing-in-the-covid-19-space-authority-legitimacy-and-adaption-in-a-time-of-ambiguity/>

<sup>12</sup> <https://policinginsight.com/features/analysis/policing-in-the-covid-19-space-authority-legitimacy-and-adaption-in-a-time-of-ambiguity/>

<sup>13</sup> This coincided with a raft of new legislative changes including the £10,000 fine for organisers of large public gatherings: <https://www.gov.uk/government/news/prime-minister-announces-stronger-enforcement-measures-as-easements-resume>.

<sup>14</sup> <https://www.independent.co.uk/news/uk/home-news/coronavirus-act-unlawful-prosecutions-review-uk-a9516566.html>

much more likely to be in close proximity to potentially infected members of the public, particularly if they had to go ‘hands on’ and arrest individuals. This has created the perverse situation of officers enforcing legislation designed to protect public health, whilst creating extra risks of infection both for themselves and for those being arrested. Indeed, one officer raised the prospect of 6 officers out of a team of 20 going to an incident where someone has Covid-19. Do these officers all have to self-isolate afterwards and how do mitigating factors (e.g., wearing fluid-resistant masks, proximity) affect this decision? These issues complicated the challenges faced by police forces in managing officer wellbeing more broadly, and more specifically increasing officer sickness levels. For example, the MPS has been wrestling with the internal challenges their business with high levels of officer abstraction (a recent period where 23% of their workforce off sick or self-isolating).

14. Additionally, officers described the important challenges to their legitimacy that were inherent in policing protests during the pandemic. In particular, they described the complexity with regards to balancing both their requirements to enforce aspects of the Covid-19 legislation and also to uphold the positive obligations placed on them which are enshrined in the Human Rights Act (e.g., ECHR Article 10 – the freedom of expression and information; Article 11 – the freedom of assembly and association). For example, officers insisted that their positive and negative duties of facilitating peaceful protest still applied legally, yet in so doing they often had to tolerate breaches of Covid-19 legislation. This issue was compounded by the Home Office decision in November to remove protest as an exemption to the November lockdown legislation. Officers stressed the importance of the strategic use of discretion with facilitation prioritised wherever possible, arguing that the short-term push to enforce Covid-19 breaches would come at the expense of long-term community relations and the loss of police legitimacy.

#### Conclusions and recommendations:

*The extent to which the Home Office and its associated bodies have learned lessons and improved the policy and operational response as the pandemic has evolved.*

15. Our data raise important implications for the Home Office and its associated bodies such as the College of Policing. In particular, our research helps to evidence the impact of policy on the police and the effects that this has at an operational level with regards to their key mission of building and maintaining community support and legitimacy.
16. In this regard, our evidence suggests the 4Es strategy was important as it outlined a commitment for police forces to try and build and maintain consent-based, legitimate relationships with the public. This challenge of managing police legitimacy was more salient than ever, as both the police and the public had to adjust and navigate changing legislation.
17. However, our research also identified several factors that had the potential to stymie officers’ ability to effectively implement this approach. In particular, an objective tension was introduced from mid-August onwards between the 4Es prioritisation on engagement and dialogue on the one hand and the push by the Home Office and NPCC towards more vigorous enforcement on the other.
18. This shift has been justified by the Home Secretary and others in terms of a priority measure necessary to protect public health<sup>15</sup>. Yet the evidence between strong levels of law enforcement and successful curtailment of diseases such as Covid-19 is not clear cut, particularly in the context of policing. For example, in countries such as France police enforcement has been far more salient than in the UK yet the number of cases and deaths due to Covid-19 have remained relatively high.

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<sup>15</sup> <https://www.itv.com/news/2021-01-10/home-secretary-defends-strong-enforcement-of-covid-19-lockdown-rules>

19. Given that the link between enforcement and health outcomes is not an uncomplicated one, it is important to have in mind the other potential consequences of increasing the level of police enforcement activity. For instance, officers talked about a ‘self-fulfilling prophecy’ whereby in some geographical areas they were receiving large numbers of calls about breaches and so subsequently police deployed in these areas leading to increased enforcement. This then sometimes fed tension between the police and these local communities. In some instances, this manifested as unequal deployment of police resources and ‘over-policing’ of deprived and ethnically mixed communities. This is important to consider in light of the NPCC analysis that demonstrated that BAME groups were 1.6 times more likely to be fined for Covid-19 breaches compared to white people between the months of March and May 2020<sup>16</sup>. Research and theory suggest that policing experienced as illegitimate may serve to solidify negative relationships between the police and communities, undermine adherence to public health guidance and potentially amplify the prospect of collective conflict and disorder<sup>17</sup>.
20. Another corollary of overemphasising enforcement is that there is a danger that neighbourhood or community style policing is underutilised, yet research suggests that such dialogue and engagement-oriented approaches during the pandemic are a key component to promoting public legitimacy in policing in line with the 4Es guidance.
21. Neighbourhood policing is well positioned to operationalise the four-key evidenced-based principles of facilitative policing<sup>18</sup> in ways that encourage a shared sense of ‘us’ between the police and the public and corresponding beliefs that the police are acting in ways that are legitimate, in line with community interests and goals. We have argued that these principles are:
- 1) Officers should seek to *educate* themselves about the idiosyncratic goals, values and norms of the different communities that they police.
  - 2) Wherever possible the police should try to *facilitate* the legitimate objectives and ambitions of the communities they encounter.
  - 3) Officers should *communicate* in clear and effective ways how their actions align with community goals, considering the viewpoints of community representatives.
  - 4) Any policing intervention should be targeted and there should be *differentiation* such that enforcement action is focused on those breaking the law across all communities.

By enacting these principles which align with the 4Es guidance, local neighbourhood policing teams can gauge the specific needs and requirements of the communities that they police and seek to ‘scaffold’ pre-existing or emergent support groups oriented towards helping vulnerable people navigate the challenges presented by Covid-19<sup>19,20</sup>. There is a danger that the increasing push towards an ‘enforcement first’ policy by the Home Office may undermine police efforts to enact these principles and, in the process, potentially serve to damage police legitimacy and encourage forms of public resistance. Our research suggests that the NPCC/CoP 4Es guidance has provided a useful bulwark against this enforcement agenda by providing an evidence-informed framework for officers to prioritise engagement and build consent-based relationships with the public.

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<sup>16</sup> <https://news.npcc.police.uk/releases/independent-analysis-of-coronavirus-fines-published>

<sup>17</sup> <https://academic.oup.com/policing/article/14/3/569/5812788>

<sup>18</sup> <https://academic.oup.com/policing/article/14/3/569/5812788>

<sup>19</sup> <https://academic.oup.com/policing/article/14/3/574/5826633?login=true>

<sup>20</sup> [https://www.researchgate.net/publication/347115164\\_What\\_have\\_we\\_learned\\_so\\_far\\_about\\_COVID-19\\_volunteering\\_in\\_the\\_UK\\_A\\_rapid\\_review\\_of\\_the\\_literature](https://www.researchgate.net/publication/347115164_What_have_we_learned_so_far_about_COVID-19_volunteering_in_the_UK_A_rapid_review_of_the_literature)