

National Police Chiefs Council – written evidence (CIC0486)

House of Lords Constitution Committee Inquiry into the Constitutional Implications of COVID-19

1. I am writing to you in response to your inquiry on the constitutional implications of COVID-19.
2. As you will be aware, policing has played a critical role during the pandemic and our staff and officers have made a substantial contribution in helping to keep the public safe and preventing the spread of the virus. It is a testament to the skill and professionalism of our fantastic officers and staff that public support for the enforcement of unprecedented measures remains high.
3. The coming months will be crucial to suppressing the virus and we know that this period will undoubtedly be challenging. We are committed to doing everything possible to support the public health response.

To what extent have the new legal requirements introduced in response to the pandemic been clear and accessible to members of the public?

4. We recognise that with any unprecedented change, there will inevitably be some confusion about what those changes are, what the public are legally obligated to follow and what the public health guidance is. Our approach to policing the lockdown rules reflect this.
5. Throughout, we have policed the coronavirus regulations using the 4 E's approach: engage, explain, encourage, and only where necessary enforce. Our aim has been to ensure compliance and in the vast majority of cases the public have followed the rules and enforcement has not been necessary. Only where we were unable to encourage people to comply with the rules designed to save lives have officers moved to enforce by way of a fixed penalty notice (FPN).
6. We were especially cognisant of the potential misunderstanding of the rules during the early period of the pandemic as people adapted to new restrictions. It is for this reason that our focus was on the first 3 E's. However, as the pandemic has continued, there have been a number of people who continue to blatantly ignore the regulations and as a result we will now move more quickly to enforcement. Those who ignore the regulations should expect to receive an FPN and we will target our resources towards those who commit the most serious breaches and put others at risk through their behaviour.

Has the distinction between legally enforceable requirements and non-mandatory government guidance been clear for the public? And for police officers?

7. We recognise that with staff and officers making thousands of interactions with the public across the UK on a daily basis, there will inevitably be some misinterpretations made. This is to be expected when officers are working in very unusual circumstances and are having to interpret new and frequently changing

legislation and guidance. However, the most important thing is that where these are made, they are recognised and that action is taken to learn from them and address them.

8. The vast majority of interactions between our officers and staff and the public are positive and the small number of misinterpretations that are made should not be seen as reflective of the day to day engagement that officers have when policing the pandemic. In the overwhelming majority of cases, interactions see the public comply with the rules and no enforcement action becomes necessary.
9. Additionally, we continue to update the joint NPCC and College of Policing guidance on a regular basis to ensure that officers have the best possible information when interacting with the public over potential breaches. This guidance clearly sets out what is enforceable and what is not and is available publicly on the College of Policing website.

What challenges does the rapid announcement of changes to the law pose to the police? Have police forces had enough notice to prepare and plan for their enforcement? Has the amount of notice police forces receive of changes to the law improved over the course of the pandemic?

10. Inevitably as there are changes in legislation, it will require time to fully embed these changes and ensure that they are understood thoroughly. This can be seen in the spike in the number of calls received by police control rooms from the public trying to understand what these changes mean for them each time the regulations change.
11. When these changes occur, we often find ourselves working in a time-sensitive environment, attempting to provide guidance to officers in a very short space of time. While we have close links with officials, as government are often working to similar time constraints this has meant that on some occasions it has been difficult to get the guidance out to officers ahead of those regulations taking effect. While officers will engage with the public and encourage compliance, in such circumstances, we cannot expect officers to enforce the changes to regulations until that guidance has been drafted, thoroughly checked legally, and then circulated to all forces and frontline staff.
12. More recent changes to Tiers have also meant that the guidance we issue to staff has been far more complex, and this requires considerable time and effort to translate into clear guidance for staff. But this process can only begin when we have a set of final draft regulations, which have on occasions been received just an hour or two before they became effective.
13. Our experience working with colleagues in the Home Office has been excellent throughout the pandemic and has only improved as the pandemic has continued, however, the challenge for policing comes from the ability to be involved at an earlier stage at the source of the regulations within government.

How are police officers on the front line advised of changes to coronavirus restrictions? How is guidance for officers prepared and disseminated?

14. Each police force has a dedicated single point of contact (SPOC) on COVID-19 who is responsible for ensuring internal distribution of changes to guidance. Once the guidance has been updated it is distributed to these SPOCs by Operation Talla

(henceforth Op Talla), the team responsible for the national policing response to the pandemic, as well as directly to 24/7 Force Control Rooms. Chief Officers, police force communications teams and relevant stakeholders are additionally notified of these changes. The guidance is also published on the College of Policing website.

15. All NPCC/Op Talla and College of Policing guidance has to be drafted and approved by College of Policing legal, Home Office legal and Op Talla legal to ensure that the guidance and information available to all forces (including non-Home Office forces) is sufficient for the interpretation of the regulations and legislation by officers and staff.

What has been the effect of legal divergence within England for the clarity and ease of enforcement of the new measures?

16. Divergence between areas in England has at times led to some difficulty for policing. While early on in the pandemic the regulations were fairly clear, with the initial introduction of the tier system and local variations of those tiers, the subsequent messaging may have introduced additional confusion for the public over what was allowed under the regulations.
17. The guidance provided to officers goes through a stringent legal process before being distributed, however there were still challenges in ensuring that frontline officers understood not only the regulations in their area, but those from neighbouring and other areas. This was necessary in circumstances where they are engaging with someone from a different area where restrictions apply differently. This not only applied to areas with different tier restrictions in England, but also across the Welsh and Scottish borders.
18. The simplifying of the tier system made enforcement more straightforward, and the national restrictions now in place make enforcement simpler still.

Is there anything else that the government should be doing differently, going forward, in terms of notifying the police and the public at large of the new measures and ensuring they are clearly understood?

19. We have regular conversations with government on what could be done to improve how we ensure compliance with the rules. Alongside further involvement at an earlier stage of development of new regulations, we have encouraged the government to simplify messaging to help the public understand the rules more easily and for officers to more easily engage with them in ensuring compliance.
20. We have a good relationship with the Home Office and have engaged closely on strategic issues, as well as on operational guidance and supporting materials. We regularly engage with other departments including the Department of Health and Social Care.

What factors led to wrongful arrests and charges under the coronavirus legislation and how might these have been avoided?

21. The unprecedented circumstances in which officers were presented with new powers within days of them being announced can lead to some confusion and

wrongful use of legislation, and we have apologised where this has happened and acted quickly to rectify it.

22. It is right that any errors are quickly identified. Alongside a review process by the CPS, additional safeguards are in place in forces and additional guidance was provided on the correct use of legislation.
23. All FPNs are reviewed internally by forces before being sent to ACRO for processing. A robust checks and balance around evidential threshold is carried out by ACRO before the FPN is issued. This ensures that these are proportionate and fair, legal and accountable.
24. We will continue to apply learning as we move forward through the current health emergency.

A number of constables have expressed concern about the growing Covid fatigue. Do you recognise that as being a challenge in terms of compliance and policing? If so, how do you think this risk can best be managed going forward?

25. We understand that the past year has been incredibly difficult for everyone but the vast majority of people continue to recognise the need to comply with the rules to protect public health during this pandemic and stop the spread of the virus. However, there have been instances of people blatantly breaching the rules and we have been clear that we will focus our enforcement on those doing so.
26. It is important that there continues to be clear messaging around the rules and the importance to public health of complying with them.

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