

**Written evidence from Dr Monica Bernal Llanos,
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**Public Administration and Constitutional Affairs Committee
Coronavirus Act 2020 Two Years On inquiry**

Introduction

1. The Government has requested written evidence on the following points relating to the Covid Act:
 - The operational effectiveness of the Coronavirus Act 2020 and its interaction with other emergency legislation, including the Public Health Act 1984 and the Civil Contingencies Act 2004.
 - The evidence and procedures underpinning the six-monthly and annual renewal processes for the Coronavirus Act 2020 since its entry into force in March 2020.
 - The transparency surrounding the use of data (including behavioural insights) in decision-making relating to the renewals of the Coronavirus Act 2020.
 - The circumstances and process under which Section 90 of the Coronavirus Act 2020 can and/or should be used to extend measures beyond their sunset clause.
2. This submission focuses on point 1 – operational effectiveness.

Who we are: CO-POWeR

3. The Consortium on Practices of Well-being and Resilience in BAME Families and Communities (Co-POWeR) is a research consortium funded by the ESRC, formed by the Universities of Leeds, Sussex, Goldsmiths, UEL, Southampton, South Wales, Royal Holloway, UCL and Warwick.
4. We start from the premise that we are tackling two viruses – COVID-19 and discrimination (Solanke 2020).
5. We are investigating the combined impact of the COVID-19 pandemic and discrimination on practices for wellbeing and resilience across BAME families and communities (BAMEFC) in the UK.
6. Systemic deficiencies have stimulated BAMEFC agency, producing solidarity under emergency, yet BAMEFC vulnerability remains, requiring official support.
7. We will produce evidenced recommendations enabling official mitigation of disproportionate damage to the wellbeing and resilience of BAMEFC.
8. Empowerment is a core consortium value – co-design, co-production, capacity-building and engagement informs our methodology.
9. Co-POWeR will enhance official decision-making through strengthening cultural competence in ongoing responses to COVID-19 thereby maximizing success of national strategy.

Operational Effectiveness

10. We understand ‘operational effectiveness’ in relation to the enforcement provisions of the COVID Act.

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11. The operational effectiveness of the Coronavirus Act 2020 must be evaluated within the context of a broad spectrum of interacting issues including health, housing, welfare, education, employment and policing.
12. Our Comments relate primarily to the effectiveness of the enforcement provisions and how the powers given to the police are operating in Black, Asian and Minority Ethnic families and communities.

Summary

13. The historically complex relationship between the police and racially minoritised groups in the UK has continued throughout the Covid-19 pandemic.
14. This has undermined the operational effectiveness of the Coronavirus Act 2020 in securing co-operation with broader COVID-19 mitigation measures such as uptake of the COVID vaccine.
15. These police powers should be removed from the Coronavirus Act 2020, or if retained designed in consultation with BAME families and communities.

Evidence

16. Despite all the measures in place to avoid social contact, powers such as Stop & Search—which require physical proximity— have increased.
17. The Home Office report on police powers and procedures for England and Wales, published on 18 November 2021² shows an increase of 24% in stop and searches for the year ending in March 2021, with 1 in 5 of those stopped being male minority ethnic teenagers.
18. According to the Home Office, “the highest rate of stop and search was for males aged 15-19 who belong to a [BAME] group, who were searched at a rate of 208 per 1,000 people, a rate 3.0 times higher than white people of the same age group.”
19. Overall, “males aged 15-34 from a BAME background account for 32% of stop and search in the year ending March 2021, despite only comprising 2.6% of the population.”
20. Likewise, data from the National Police Chiefs’ Council (NPCC)³ from March to May of 2020, shows that Fixed Penalty Notices (FPNs) for breaching Covid regulations were issued at a rate of 1.6 times higher to people from black, Asian and minority ethnic backgrounds compared to white people.

Understanding the causes and dynamics of these impact on operation effectiveness, along with their broader socio-economic and cultural dimensions.

21. Clarity of the Powers in the Coronavirus Act 2020 seems to play a significant role in this.
22. The police powers in the Coronavirus Act 2020, being drafted during an emergency, leave much room for interpretation. The police have struggled to “interpret” them and the guidance, which changes when in and out of lockdown, and during the tiered system implemented during the first half of 2021 in the UK.
23. For example, the Coronavirus Act 2020 is unclear on whether wearing a face mask or being outside when in lockdown warrants a FPN or an eventual arrest.

² <https://www.gov.uk/government/statistics/police-powers-and-procedures-stop-and-search-and-arrests-england-and-wales-year-ending-31-march-2021/police-powers-and-procedures-stop-and-search-and-arrests-england-and-wales-year-ending-31-march-2021>

³ <https://news.npcc.police.uk/releases/independent-analysis-of-coronavirus-fines-published>

24. Local police forces and their legal teams have differed in their approach resulting in the consequence that, according to the Crown Prosecution Service, up to a quarter of all FPNs are wrongly issued (25% Jan 2021; 27% Feb 2021).⁴

Conclusion

25. As government evidence illustrates, the disproportionate rate and dynamics of police encounters with Black people and ethnic minorities during the pandemic has continued and worsened.
26. The operation of the emergency powers in the Coronavirus Act 2020 has created the context for this exacerbation of disproportionate and potentially discriminatory use of police powers.
27. Communities that have historically felt targeted by the police, see the issuing of vague police powers in the Coronavirus Act 2020 as a threat to their wellbeing.
28. A potential consequence of these dynamics of police encounters with Black and racially-minoritised groups during the pandemic is the increase in distrust towards state authorities in general not just the police.
29. If not fully addressed, this increase in distrust will undermine efforts for a comprehensive vaccine uptake throughout the population.
30. A long-term consequence will therefore be an undermining of efforts to safely bring the UK out of the pandemic.

Recommendations on Revision of the Coronavirus Act 2020 to improve operational effectiveness

31. In order to improve the operational effectiveness of the Coronavirus Act 2020, the powers given to the police in the Coronavirus Act 2020 should be removed. The evidence shows that police powers undermine the overall effectiveness of laws introduced to deal with public health crises such as the pandemic.⁵
32. If these powers remain in place, they must be more clearly articulated to support operational effectiveness by ensuring that every police force and officer should adopt the same interpretation and apply them in the same way.
33. In order to ensure police powers in the Coronavirus Act 2020 support operational effectiveness, in formulating such powers the government should consult with people in BAME families and communities, who advocate for a policing system that stands up to its mission statement: “to make communities safer by upholding the law fairly and firmly.”

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⁴ <https://publications.parliament.uk/pa/jt5801/jtselect/jtrights/1364/136408.html>

⁵ Dewey (2021); Harris, Joseph-Salisbury, William and White (2021)