

Fact Sheet 9

FIXED PENALTY NOTICES DURING THE PANDEMIC – UPDATE

This Fact Sheet was researched and authored by academics at The University of Edinburgh

This fact sheet provides an update on the Fixed Penalty Notices Factsheet (Number 2) that was published on the SPA's website on 1 October 2021.

The previous fact sheet is available on the [SPA website](#).

Policing powers during the pandemic

In 2020, the UK and Scottish Governments introduced separate pieces of legislation in an effort to reduce the spread of COVID-19 in our communities.

The Coronavirus Regulations gave temporary powers to police officers to help ensure that people followed the restrictions put in place to prevent the spread of COVID-19, protect the NHS, and save lives.

The temporary powers allowed police officers to:

- Tell people to disperse
- Tell parents to stop their children breaking the rules
- Issue a Fixed Penalty Notice or make an arrest

For more information on the legislation see:

[The Health Protection \(Coronavirus\) \(Restrictions\) \(Scotland\) Regulations 2020](#)
[Coronavirus Act 2020](#)

Purpose

The Strategic Police Plan commits to the provision of policing for a safe, protected and resilient Scotland. This requires designing and maintaining services which meet rising and evolving demands in a constantly changing environment. To meet these demands now and in the future Scotland's police service must adapt and proportionately adopt new ways of working, policies and technologies which will enable them to protect the safety and wellbeing of our communities (as outlined in the Policing Principles - Section 32 of Police and Fire Reform (Scotland) Act 2012).

This series of public focused and user-friendly factsheets have been developed to provide an overview of the benefits of new policing approaches and upcoming developments within policing, the policies that will govern them, and the ethical, privacy and human rights implications. For further reading, Police Scotland and the Scottish Police Authority have also published a range of associated material that will be signposted at the end of this document.

What is a 'fixed penalty notice'?

A fixed penalty notice (FPN) is an on-the-spot fine which the police have the power to issue for a minor offence.

FPNs were initially introduced under the Anti-Social Behaviour Scotland Act 2004 as a means of dealing with various minor public order offences (e.g. breach of the peace, malicious mischief).

COVID-19 FPNs

In Scotland, the initial Regulations allowed people aged 16 or over to be issued with an FPN if they broke the rules. This was raised to 18 or over in May 2020 as the result of a joint approach to the Scottish Parliament from Police Scotland and the Children's Commissioner.

The cost of a COVID-19 FPN varied depending on the number of previous FPNs and the speed of payment. A first FPN incurred a cost of £60 which was halved to £30 if paid within 28 days. The value of each subsequent FPN was doubled, although they were also subject to the early payment discount.

In Scotland, the Regulations allowed for individuals to be issued with a maximum of five COVID-19 FPNs; however, this was reduced to four under guidance from Scotland's Lord Advocate.

The UK College of Policing stated that police officers should use the 4Es approach to dealing with breaches of the Regulations. This meant 'engaging' with people, 'explaining' the rules, 'encouraging' compliance with the rules and, only as a last resort, using 'enforcement'.

Use of FPNs in Scotland

Public opinion surveys conducted during the course of the pandemic show that people living in Scotland were overwhelmingly compliant with the Regulations, especially during the first lockdown.

Between March 2020 and May 2021, Police Scotland recorded almost 150,000 COVID-19 related encounters with members of the public. Figure 1 shows that 12% of encounters involved issuing an FPN and less than 1% involved an arrest. This provides strong evidence that Police Scotland were using the 4Es approach.



Figure 1: Percentage of police encounters resulting in enforcement

There were 20,410 COVID-19 FPNs issued between March 2020 and May 2021. This is around three times the number of FPNs issued for anti-social behaviour during the year prior to the pandemic.

The number of COVID-19 FPNs issued between March 2020 and May 2021 is relatively small when compared to the approximately 570,000 crimes and offences recorded during the same period.

Figure 2 shows that the majority (92%) of COVID-19 FPNs issued were for the lowest amount of £60. This means that less than one in ten fines were issued to people who committed more than one offence under the Regulations.

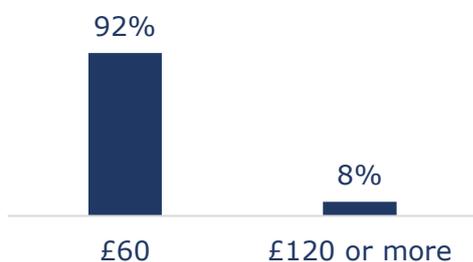


Figure 2: Percentage of FPNs by cost

Trends in COVID-19 FPNs

There was significant variation in the number of COVID-19 FPNs issued over the course of the pandemic. FPNs were most commonly issued when the Regulations were at their tightest, during the two lockdowns.

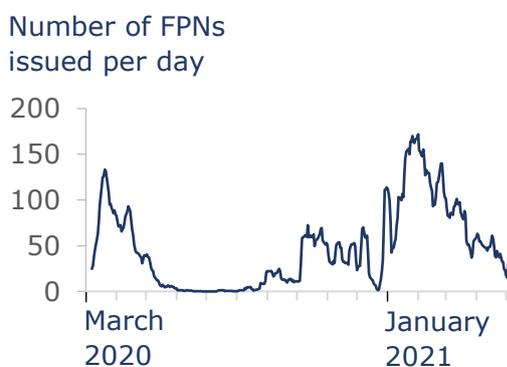


Figure 3: Daily number of COVID-19 FPNs issued in Scotland between March 2020 and May 2021

Figure 3 shows that police use of FPNs rose sharply during the first three weeks of lockdown, in March 2020. FPN use then gradually declined until the easing of restrictions at the start of the summer in 2020.

During the first lockdown, spikes in police use of FPNs tended to coincide with good weather, public holidays, weekends, and announcements relating to the easing of restrictions.

The number of FPNs issued rose slightly in the autumn of 2020, when students went back to college and university, and again after local restrictions (or 'levels') were introduced in November 2020.

Around six in ten of all COVID-19 FPNs were issued during the second UK-wide lockdown, which began in January 2021. FPN use peaked in February 2021, then gradually declined over time until restrictions eased in May 2021.

Spikes during the second lockdown were influenced by public and political concern about rising cases and deaths, but also by waning public compliance and increased frustration amongst police officers.

Locus of COVID-19 FPNs incidents

Most COVID-19 FPNs were issued for breaches that occurred indoors or in private places. However, this varied over the course of the pandemic and reflected changes in the nature of the restrictions that were in place at the time.

During the first lockdown, most COVID-19 FPNs (73%) were issued for breaches that happened in outdoor or public spaces. During the second lockdown, the majority (94%) of FPNs were issued for breaches that occurred indoors or in private spaces.

Socio-demographic profile of FPN recipients

Younger people were far more likely than older people to be issued with COVID-19 FPNs.

Over three fifths of fines were issued to people aged 30 or younger, who make up only around one fifth of the population. This fits with research that suggests younger people were less likely to comply with the Regulations, especially as the pandemic wore on.

Men were around twice as likely as women to receive an FPN in Scotland; however, Figure 4 shows that the age profile of male and female FPN recipients was virtually identical.

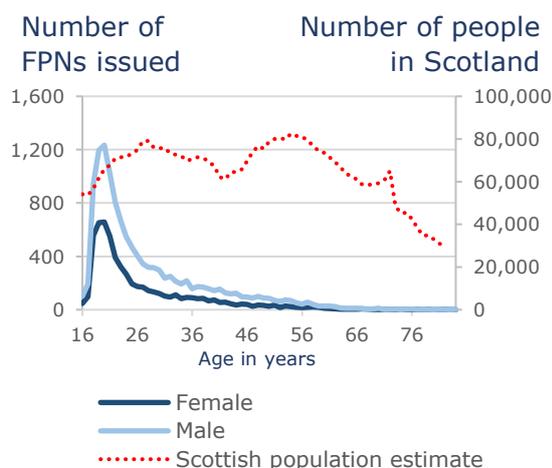


Figure 4: Age and sex profile of COVID-19 FPNs issued in Scotland between March 2020 and May 2022

There was a significant skew in the deprivation profile of FPN recipients based on their home address (using the 2020 Scottish Index of Multiple Deprivation), as shown in Figure 5.

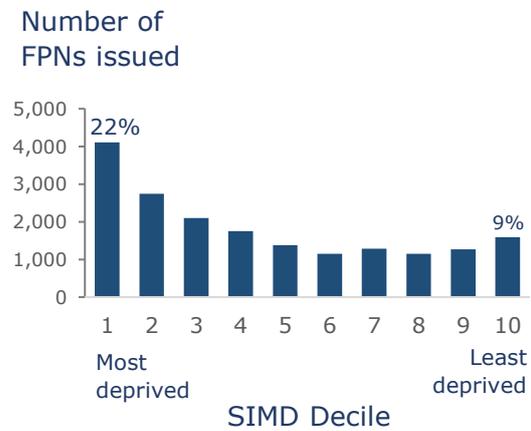


Figure 5: SIMD deprivation profile of COVID-19 FPN recipients in Scotland between March 2020 and May 2021

Between March 2020 and May 2021, more than one in four COVID-19 FPNs were issued to people living in one of the 10% most deprived neighbourhoods in Scotland, compared to less than one in ten for those living in one of the 10% least deprived neighbourhoods.

This means that those living in the most deprived areas were 2.6 times more likely to receive an FPN than those living in the least deprived areas. Possible reasons for this could include: different levels or types of non-compliance with the restrictions; different public reporting practices; or differences in the local deployment of policing resources.

The social gradient, shown in Figure 5, varied throughout the pandemic. During the first lockdown, people living in the 10% most deprived areas were actually 12.6 times more likely to receive an FPN than those

living in the 10% least deprived areas; however, this disparity reduced to 1.8 during the second lockdown.

The very large reduction in the disparity between those living in most and least deprived areas is partly due to an increase in COVID-19 FPNs being issued to younger people, particularly students, who were living in more affluent parts of Scottish cities. However, it also reflects growing non-compliance across all sectors of Scottish society.

Geographical profile of FPN recipients

The number of COVID-19 FPNs issued across Scottish police divisions varied, as shown in Figure 6. Greater Glasgow issued the largest number of FPNs, around 3 times more than the next nearest division; while Dumfries and Galloway issued the least. Overall, more fines were issued in the West of Scotland than the North or East.



Figure 6: Number of COVID-19 FPNs issued across Scottish police divisions between March 2020 and May 2021

The extent of the difference between police divisions narrowed once population size was taken into account, as shown in Figure 7. The rate of COVID-19 FPNs issued in Greater Glasgow was only slightly larger than that for Argyll and West Dunbartonshire, the next nearest division.

The divisions with the highest rate of COVID-19 FPNs include some (e.g. Renfrewshire and Inverclyde and Argyll and West Dunbartonshire) that cover very rural areas, and reflect significant levels of illegal travel to beauty spots, beaches and popular tourist destinations; and others (e.g. Greater Glasgow and Edinburgh) that cover large urban centres that include several universities.

Almost a quarter (23%) COVID-19 FPNs were issued to people who were not resident in the police division in which they received the FPN (i.e. they had travelled across at least one police division border, which was against the restrictions during periods of the pandemic).



Figure 7: Rate of COVID-19 FPNs issued across Scottish police divisions between March 2020 and May 2021

During the first lockdown, most non-resident fines in Scotland were issued to those living in a neighbouring police division (i.e. travel was typically fairly localised). However, in the second lockdown, an increasing number were issued to people who lived in police divisions that were further away and had travelled across several police division boundaries.

What safeguards are in place?

FPNs are typically issued by police officers for minor offences. This prevents the police from having to submit a report to the Procurator Fiscal, and means that the individual does not receive a criminal conviction. It is, therefore, a very low level penalty.

Payment of the FPN discharges any liability to conviction for the offence. If a person thinks that they have been issued with a fixed penalty unfairly, they can contact Police Scotland and let them know that they dispute it. However, once the person has paid the fine it can no longer be challenged as the disposal is complete.

If a refusal is communicated to the police, a report will be sent to the Procurator Fiscal for consideration. If the Procurator Fiscal decides that the case should proceed, the individual may be cited to appear in court. If this happens, the FPN recipient will have the opportunity to challenge the allegation.

Oversight

The Scottish Police Authority (SPA) was committed to maintaining effective and transparent governance and oversight of Police Scotland's approach to operations during the COVID-19 public health emergency. This had a focus on the proportionate and justifiable application of the extraordinary powers put in place as part of the national response. These extraordinary powers were implemented at pace which required a coherent and consistent application across the country. Firmly embedded in the human rights based approach to policing, Police Scotland approach sought to balance the requirement to support compliance with the regulations, to protect the health of communities, with the practical local application to individual citizens in a proportionate and pragmatic way.

The Authority took assurance that the approach was taking account of the public interest and wider ethical and human rights considerations through having regard to the frequent reporting provided to the Authority afforded by the establishment of the Independent Advisory Group (IAG). The IAG through its Independent Chair reported publicly to the Authority providing an additional well informed but independent view on the approach being taken by Police Scotland. In addition there was regular reporting to the Authority by the Chief Constable at its public sessions and there was widespread and regular polling of public views commissioned by the Authority.

Martyn Evans, the Chair of the SPA has publicly commented that it was voluntary citizen compliance and not police enforcement that was the bedrock of ensuring the effective public behaviours that optimised the response to the pandemic. The key role of policing during the pandemic was to support the public where compliance issues were identified by progressing through the stages of Engaging, Explaining and Encouraging. This was the principle method by which Police Officers supported and encouraged compliance with Coronavirus Regulations. Enforcement action, including the issuance of a FPN was an unusual outcome of engagement and when it was used was a signal of commitment to the wider public good in extraordinary circumstances.

The SPA concluded that Police Scotland responded to the pandemic with clear leadership, flexibility, resilience, strategic coherence and a strong public sector duty.

Further reading

The data contained in this Factsheet was provided by the [Policing the Pandemic in Scotland](#) project team, and is published in [Police Use of Covid-19 Fixed Penalty Notices in Scotland](#).

The data analysis was conducted to support the work of the Scottish Police Authority's [Independent Advisory Group on Coronavirus Powers](#).

Keeping up to date

To keep up to date with our work, please keep an eye on the Scottish Police Authority's [website](#) where you can find papers and watch livestream committee discussions, and follow us on Twitter:

@ScotPolAuth @policescotland