

# **EVIDENTIAL BUNDLE**

**Understanding the Police Operation Talla  
“not to record” approach**

**Police Scotland disclosure**  
**“The Speirs Directive”**



## Freedom of Information Response

Our reference: FOI 25-0673

Responded to: 20 March 2025

Your recent request for information is replicated below, together with our response.

**It is understood that a directive to Police Scotland staff was issued (apparently in January 2022, according to one of your police officers), by Assistant Chief Constable Alan Speirs. It is understood that this directive advised your staff that they were not to accept communications, reports and the like, from the public, which related to Covid 19 injections (which were and are sometimes referred to as Covid 19 vaccines).**

**In the circumstances, please provide:**

**(1) A copy or other relevant record of the communication/directive issued to Police Scotland staff by Assistant Chief Constable Speirs to which I have referred above.**

A copy of the directive is attached separately.

**(2) Details of the basis for the issue of the directive referred to and also details of the party or parties responsible for directing Assistant Chief Constable Speirs to issue the directive to which I have referred.**

This was published on the advice of the National Police Chiefs' Council and the UK Gold Command Structure in place to support Covid 19, PSOS engaged with the forum and advice stemmed from NPCC. The decision to issue the directive came via the Gold Command.

If you require any further assistance, please contact us quoting the reference above.

You can request a review of this response within the next 40 working days by [email](#) or by letter (Information Management - FOI, Police Scotland, Clyde Gateway, 2 French Street, Dalmarnock, G40 4EH). Requests must include the reason for your dissatisfaction.

## OFFICIAL

If you remain dissatisfied following our review response, you can appeal to the Office of the Scottish Information Commissioner (OSIC) within 6 months - [online](#), by [email](#) or by letter (OSIC, Kinburn Castle, Doubledykes Road, St Andrews, KY16 9DS).

Following an OSIC appeal, you can appeal to the Court of Session on a point of law only.

This response will be added to our [Disclosure Log](#) in seven days' time.

Every effort has been taken to ensure our response is as accessible as possible. If you require this response to be provided in an alternative format, please let us know.

## OFFICIAL

### COVID-19 anti-vaccine related activity by members of the public

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**Published 25/01/2022:** Statement from ACC Alan Speirs about the intimidation of staff and volunteers working in settings related to the COVID-19 vaccine:

A number of incidents have taken place across the UK in recent days where members of the public have sought to intimidate and serve papers on staff and volunteers working in settings related to the COVID-19 vaccine.

We are also aware of individuals attending at police stations or calling police to either report what they believe to be criminal offences relating to the vaccine or to request police support in their attempts to “serve” papers on staff and volunteers or to shut down facilities.

In some cases, these individuals have claimed that a police investigation is taking place into criminal allegations relating to the UK’s vaccine programme.

The Metropolitan Police Service received a complaint and a number of documents on 20 December 2021. The MPS provided the complainers with a crime reference number and is reviewing the content of the documents.

However, the MPS has been clear that nothing has been found to suggest any offences or grounds for an investigation, and that no such investigation is taking place.

The National Police Chiefs’ Council has also said that it does not believe any of the papers which have been “served” to date have any legal standing.

Should any officer or member of staff be approached or contacted by people requesting assistance in line with any of the above, then these requests should be rejected.

A SID entry should be submitted and marked for the attention of Operation Norden, and Operation Talla should be informed via a CVI entry.

While we continue to uphold individuals’ rights to freedom of expression and to protest, this must be balanced with the rights of others, keeping the public safe, preventing crime and disorder, and seeking to minimise disruption.

None of the type of behaviour outlined above should be considered as protest activity and could in fact constitute criminal activity.

Any efforts to intimidate, harass, or commit assault against emergency service workers, staff and volunteers will not be tolerated.

ACC Alan Speirs  
Operation Talla Silver Commander

OFFICIAL

**Correspondence**

**Between**

**Ian Clayton – Police Scotland**

**DCC Alan Speirs – Ian Clayton**

From: DCC Alan Speirs, Police Scotland

To: Ethical Approach UK

Date: 12 January 2026 at 12:43

**OFFICIAL**

Dear Mr Clayton

Thank you for your email of today's date.

Please be advised that you have our position and we do not intend to engage any further on this matter.

Regards

Alan Speirs KPM

Deputy Chief Constable

Professionalism & Enabling Services

**Gillian Stewart**

PS Gillian Stewart

Staff Officer to DCC Speirs KPM

DCC Professionalism and Enabling Services

Police Scotland Headquarters

Scottish Police College

Tulliallan Castle

Kincardine

FK10 4BE

From: Ethical Approach UK

To: DCC Alan Speirs, Police Scotland

12 January 2026 at 12:31

Dear DCC Speirs

Thank you for your email of today, 12 January 2026.

I note your clarification that the internal publication of 25 January 2022 does not, on its face, state that the approach taken by Police Scotland was issued on the advice of the National Police Chiefs' Council or UK Gold Command. I do not dispute that narrow point.

However, for the avoidance of doubt, the issue I have consistently raised is not one of wording within the intranet publication itself, but one of provenance, authority and consistency of account across official disclosures.

Police Scotland has previously made formal disclosures stating that the decision to issue the 25 January 2022 instruction was taken following advice and engagement at national level.

Separately, disclosures made by the NPCC and by other UK police forces describe contemporaneous national coordination, communications and agreed handling positions in relation to the same subject matter. Those disclosures are not confined to the text of the intranet publication, but address the upstream basis upon which local operational guidance was issued.

It is against that wider evidential background that the present difficulty arises.

Statements asserting that no national advice or blanket position existed sit uneasily alongside multiple official disclosures indicating that guidance, coordination and agreed approaches were in fact communicated nationally and acted upon by forces, including Police Scotland.

Accordingly, the point requiring clarification is a simple one, as follows:

Does Police Scotland maintain that the prior disclosures stating that the 25 January 2022 instruction was issued following national-level advice and engagement accurately reflect the position at the time?

This is not a request for further interpretation of the intranet publication, nor a challenge to your characterisation of its immediate purpose. It is a request for confirmation as to whether Police Scotland stands by the accuracy of its own earlier disclosures when viewed alongside disclosures made by national policing bodies and other UK forces.

I would be grateful to receive confirmation of Police Scotland's position on this point.

Yours sincerely

Ian Clayton

Lead Investigator

Ethical Approach UK

From: DCC Alan Speirs, Police Scotland

To: Ethical Approach UK

Date: 12 January 2026 at 11:09

**OFFICIAL**

Dear Mr Clayton,

I refer to your further correspondence of 25 November. Whilst there is reference to the position of the NPCC in the intranet publication of 25 January 2022, nowhere is it

stated in that publication that the approach taken by Police Scotland was on the advice of the NPCC and the UK Gold Command. The Police Scotland position on the matter is as outlined in the publication of 25 January 2022 and my email correspondence of 18 November 2025 to you.

I trust that this clarifies the position.

Regards

Alan Speirs KPM

Deputy Chief Constable

Professionalism & Enabling Services

From: Ethical Approach UK

To: DCC Alan Speirs, Police Scotland

19 November 2025 at 12:55

Dear DCC Speirs

Thank you for your email of 18 November 2025, the content of which is noted in full.

It is, however, additionally noted that points I raised in my email of 20 September 2025, addressed to the Chief Constable, are not addressed within your response.

For completeness, I refer your attention to the content of the following video, which is relevant to the matters raised:

<https://youtube.com/shorts/1e90oAtJoz0?si=s4MDN1Ppvmrx6Xc3>

Please be advised that our independent investigations remain underway at this time.

Regards

Ian Clayton

Lead Investigator

Ethical Approach UK

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From: DCC Alan Speirs, Police Scotland

To: Ethical Approach UK

Date: 18 November 2025 at 14:46

**OFFICIAL**

Dear Mr Clayton

*I refer to your email correspondence of 20<sup>th</sup> September relating to the publication of a statement on 25 January 2022 concerning anti-vaccine related activity by members of the public. This statement was published on the internal Police Scotland intranet which is accessible to all police officers and members of police staff.*

*The statement was published as a result of a number of incidents having taken place across the UK where members of the public had sought to intimidate and serve papers on staff and volunteers working in settings related to the COVID-19 vaccine. The purpose of the statement was to provide guidance to officers and staff in relation to the handling of such incidents. The statement advised that the Metropolitan Police Service had received a complaint relating to the UK's vaccine programme, however, had been clear that nothing had been found to suggest any offences or grounds for investigation. The statement further advised that the National Police Chiefs' Council had also said that it does not believe any of the papers which had been "served" had any legal standing. As such the advice to officers and staff was that should they be approached by any person requesting assistance in respect of such matters these should be rejected.*

*This did not preclude officers from dealing with credible criminal complaints and there is no evidence to suggest that legitimate criminal reports were filtered out as a result of this guidance. As this was a purely operational matter there was no consultation with the Scottish Police Authority.*

*I trust this overview is helpful.*

*Regards*

***Alan Speirs KPM***

***Deputy Chief Constable***

***Professionalism & Enabling Services***

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From Ethical Approach UK

To: Chief Constable, Police Scotland

cc:

(1) Scottish Police Authority

(2) Criminal Justice Committee (Scottish Parliament)

(3) COPFS

Date: 20 September 2025 at 22:10

Dear Chief Constable

## **Open Email Re: Operation Talla/Speirs Directive: Public Interest Fact-Finding under Scottish Law**

### **Context and purpose**

This is an open email sent in the public interest. It seeks clarity, not via FOI procedure, but in fulfilment of Police Scotland's statutory commitments to transparency, accountability and public confidence under the Police and Fire Reform (Scotland) Act 2012.

On 25 January 2022, an instruction (the "Speirs Directive") was issued within Police Scotland telling staff to reject public reports relating to COVID-19 vaccination as crimes and to record them as SID (Operation Norden) and CVI (Operation Talla) entries instead. In correspondence disclosed by Police Scotland, the directive is described as having been published "on the advice of the National Police Chiefs' Council (NPCC) and UK Gold Command."

In September 2025, however, the NPCC has asserted that there was no blanket national instruction and suggested that forces retained local discretion.

Two mutually exclusive accounts now exist. Either Police Scotland acted on genuine NPCC/UK Gold advice (in which case the NPCC's present position is inaccurate), or Police Scotland staff were misdirected internally (in which case the Scottish public was denied proper access to criminal investigation. Either outcome is constitutionally serious.

## **Why Scottish law is engaged**

Police and Fire Reform (Scotland) Act 2012: imposes duties on the Police Service of Scotland to improve the safety and wellbeing of persons, maintain order and secure public confidence; the Scottish Police Authority must hold the Chief Constable to account for the policing of Scotland.

Criminal Procedure (Scotland) Act 1995 (and common law): where allegations of crime are made, investigative

steps must be taken according to law; operational policies cannot fetter officers' discretion to consider the merits of reports on a case-by-case basis.

Human Rights Act 1998 / ECHR: Article 6 (effective access to justice) and, where allegations touch on risks to life, Article 2 procedural duties.

Administrative law (Scotland): blanket rules that pre-decide outcomes unlawfully fetter discretion.

A directive instructing officers to reject whole categories of public complaint on sight is prima facie incompatible with these duties. If the NPCC now says "no blanket policy existed," then Police Scotland officers may have been misled, with nationwide consequences for the people of Scotland.

**Public-interest questions (non-FOI; for immediate clarification)**

## **1. Provenance**

Did Police Scotland issue the 25 January 2022 instruction on the basis of authentic, written advice from NPCC/UK Gold Command?

If so, please identify the advice (date, author, document title/identifier) and confirm whether Police Scotland still holds it.

## **2. Legal basis**

What legal analysis under Scottish policing statute, ECHR and administrative law supported an instruction to reject vaccine-related reports as crimes rather than assess them on their merits?

Was the Scottish Police Authority consulted or informed?

### **3. Scope and dissemination**

To which divisions/units was the instruction promulgated? Was any exemption allowed where credible criminal complaints were presented?

Were officers informed that their discretion remained unfettered notwithstanding the directive?

### **4. Review and remedy**

Has Police Scotland conducted an internal review to ascertain whether legitimate criminal reports were filtered out by the instruction?

If so, what outcomes and remedial steps (e.g., re-assessment, victim re-contact, referral to COPFS) have followed?

If not, will you now commission a review (with SPA/HMICS oversight) and publish terms of reference?

## **5. Record keeping and preservation**

Have all relevant policy emails, command logs, briefings and intelligence submissions (SID/CVI/Op Talla) been preserved for oversight scrutiny and any future judicial proceedings?

## **6. Public communication**

Given the potential nationwide impact, will Police Scotland publish a public statement explaining (a) whether NPCC/UK Gold advice existed and (b) what corrective measures are being taken to restore public confidence and access to justice?

### **Why a reply matters**

If the NPCC's current position is accurate, Police Scotland officers were misdirected and the people of

Scotland suffered a wholesale denial of proper assessment of criminal complaints. If the NPCC's current position is inaccurate, then national leadership outside Scotland is rewriting history and undermining accountability.

Either way, public confidence in policing by consent is at stake. The SPA and HMICS have clear roles in safeguarding that confidence; COPFS must be aware of any systemic impediment that affected the flow of criminal reports and evidence.

I respectfully request your substantive response within 14 days, addressing the numbered questions above. This is not an FOI request; it is an exercise in public-interest oversight and a good-faith opportunity for Police Scotland to clarify the position, protect the public and uphold the law.

Yours faithfully

Ian Clayton

Lead Investigator

Ethical Approach UK

cc:

(1) Scottish Police Authority

(2) Criminal Justice Committee (Scottish Parliament)

(3) COPFS

## **National Police Chiefs' Council disclosures**

c/o PO BOX 481  
Fareham  
Hampshire  
PO14 9FS

Tel: 02380 478922

Email: [npcc.foi.request@npfdu.police.uk](mailto:npcc.foi.request@npfdu.police.uk)

14/05/2025

**FREEDOM OF INFORMATION REQUEST REFERENCE NUMBER 2264/2025**

Thank you for your request for information regarding NPCC Issued Advice re Covid-19 injections; which has now been considered.

**Applicant Question:**

Please see the response received from Police Scotland, dated 20th March 2025, to our FOIA request to them which was made in February 2025. This is available in PDF at [https://ethicalapproach.co.uk/police\\_scotland\\_FOI\\_response\\_20.03.2025.pdf](https://ethicalapproach.co.uk/police_scotland_FOI_response_20.03.2025.pdf)

I refer you in particular to that part of the said response in which Police Scotland state,

"This was published on the advice of the National Police Chiefs' Council and the UK Gold Command Structure in place to support Covid 19, PSOS engaged with the forum and advice stemmed from NPCC. The decision to issue the directive came via the Gold Command."

Please provide us with;

- (1) full particulars of the advice provided by NPCC as is referred to above,
- (2) details of the evidence considered in arriving at decisions upon which such advice issued was based and
- (3) any relating communications and/or meeting minutes etc. in respect of the formulation and issue of the said advice, including any communications received by the NPCC from Home Office or other Government/ministerial sources in such respect.

**NPCC Response:**

Unfortunately, part one of your request is invalid. In wishing to provide assistance and explain further, the NPCC cannot corroborate the response provided to you by Police Scotland. In turn, you have not provided the full response from Police Scotland, which included the directive which was provided to you as part one of their response. Therefore, it is difficult to determine which exact record you are seeking, without cross referencing

the directive issued by Police Scotland, to any NPCC records which may support that directive. For further information relating to the legislation, please see Annex A.

I believe there to be a typing error to part two of your request, and an inference has been made that you are seeking details of the evidence considered in **arriving** at decisions upon which such advice was issued. It is reasonable to assert that if we cannot identify which specific NPCC advice you refer, without seeing the Police Scotland directive, we cannot make efforts to retrieve information in respect of part two and three of your request.

The NPCC does not hold any **specific record of advice or guidance** titled or saved as 'not to accept communications and the like, from the public, which relates to Covid 19 injections/vaccines' issued to individual police forces.

In wishing to assist you, Outside of the Act, I have consulted with colleagues who have been helpful in providing information that may be of interest, which relates to the same subject matter, and date parameter within your request.

On 18 January 2022 A former retired Assistant Chief Constable of the National Police Coordination Centre (NPoCC) wrote to all Chief Constables and Force Duty Gold Officers with regard to 'potential for imminent organised targeted criminal activity at vaccination centres and schools this week':

Colleagues,

Over recent weeks there has been a noticeable change in some of the Anti-Vax protest activity both in terms of online rhetoric as well as physical tactics. Several groupings are emerging online advocating aggravated tactics, confrontations, threatening staff, criminal damage, threats to 'common law arrest' vaccination centre staff and police officers. There have also been attempts to report 'criminal' offence complaints with Forces to engage the police in investigations relating to the vaccination programme. Whilst much of this rhetoric is occurring online there have been some examples of criminal activity – a recent 'storming of a COVID Test centre in Milton Keynes being an example.....

.....NPoCC have consulted with NPCC POPS and Protest leads and all are quite clear that the actions being advocated if carried out are **NOT** lawful protest, but unlawful criminal activity, likely to include public order offences, OAP, criminal damage, harassment, and intimidation etc. and should be proactively policed to ensure the safety of those providing vaccine services, to maintain the programme and ensure public safety and confidence.....

.....**A National Police Chief's Council spokesperson said:**

*"We are aware of incidents where individuals have sought to intimidate and serve papers on staff and volunteers working in settings related to the Covid-19 vaccine. We are also aware of individuals attending police stations to report what they believe to be criminal offences relating to the Covid-19 vaccine.*

*“Police have a long history of upholding the right to freedom of expression. This must be balanced with the rights of others, keeping the public safe, preventing crime and disorder, and seeking to minimise disruption.*

*“Any efforts to intimidate, harass, or commit assault against emergency service workers, staff and volunteers will not be tolerated and will be treated and investigated as a criminal matter by police forces.”*

**Notes:**

*- The Metropolitan Police Service have to date found nothing to indicate that a crime has been committed in relation to the Covid-19 vaccine. No criminal investigation has been launched as has been claimed by some activists online. We do not believe that the papers served to date have any legal standing – Our guiding principles are maximising the safety of everyone involved, pretending criminal behaviour or disorder and deescalating tensions.*

Yours sincerely

Sherry Traquair  
Freedom of Information Officer & Decision Maker

[www.npcc.police.uk](http://www.npcc.police.uk)

## **COMPLAINT RIGHTS**

### Internal Review

Any request for an internal review will be acknowledged and responded to, based on the specific wording of your initial request only.

We ask that any rationale to request an internal review, does not include any requests for new information and ask that these be submitted by separate email. We will acknowledge as a new request and aggregate to your initial request in compliance with the legislation.

If you are dissatisfied with the response you have been provided with in compliance with the Freedom of Information legislation, you can lodge a complaint with NPCC to have the decision reviewed within 40 working days of the date of this response.

The handling of your request will be looked at by someone independent of the original decision and a fresh response provided.

It would be helpful, if requesting a review, for you to articulate in detail the reasons you are not satisfied with this reply.

If you would like to request a review, please write or send an email to NPCC Freedom of Information, c/o PO Box 481, Fareham, Hampshire, PO14 9FS.

## **Annex A**

Section 17 of the Freedom of Information Act 2000 requires the NPCC, when refusing to provide information by way of exemption in question and (c) states why the exemption applies. In accordance with the Freedom of Information Act 2000 this letter acts as a refusal notice to those aspects of your request.

### **Legislation – Section 8**

- (1) In this Act any reference to a 'request for information' is a reference to such a request which-
  - (a) Is in writing,
  - (b) States the name of the applicant and an address for correspondence, and
  - (c) Describes the information requested.

### **Legislation – Section 16**

- (1) It shall be the duty of a public authority to provide advice and assistance, so far as it would be reasonable to expect the authority to do so, to persons who propose to make, or have made, requests for information to it.

c/o PO BOX 481  
Fareham  
Hampshire  
PO14 9FS

Tel: 02380 478922  
Email: [npcc.foi.request@npfdu.police.uk](mailto:npcc.foi.request@npfdu.police.uk)

15/07/2025

Freedom of Information request reference number: **2264/2025**  
Internal Review Reference Number: **2329/2025**

Thank you for your request for an Internal Review. I am sorry you are disappointed with the outcome of your request for information under the Freedom of Information Act (the Act / FOIA).

I can confirm I was not involved with the original response, therefore, I have reviewed your request for an internal review, detailing my conclusions in this letter

**Applicant Question:**

Dear National Police Chiefs' Council,

Please see the response received from Police Scotland, dated 20th March 2025, to our FOIA request to them which was made in February 2025. This is available in PDF at [https://ethicalapproach.co.uk/police\\_scotland\\_FOI\\_response\\_20.03.2025.pdf](https://ethicalapproach.co.uk/police_scotland_FOI_response_20.03.2025.pdf)

I refer you in particular to that part of the said response in which Police Scotland state,

"This was published on the advice of the National Police Chiefs' Council and the UK Gold Command Structure in place to support Covid 19, PSOS engaged with the forum and advice stemmed from NPCC. The decision to issue the directive came via the Gold Command."

Please provide us with;

- (1) Full particulars of the advice provided by NPCC as is referred to above,
- (2) Details of the evidence considered in arriving at decisions upon which such advice issued was based and
- (3) any relating communications and/or meeting minutes etc. in respect of the formulation and issue of the said advice, including any communications received by the NPCC from Home Office or other Government/ministerial sources in such respect.

**NPCC Response to original request:**

Please see attached letter titled 2264 2025 NPCC Response Letter – A directive issued on the advice of the NPCC 08052025

**Request for Internal Review:**

Dear NPCC (FOI)

Thank you for your email response dated 14th May 2025.

In your said response, it is said that I have not provided you with the full response and details of the directive to which Police Scotland have referred. However, such has been provided to you via the link contained in my initial request.

To be clear and for the avoidance of any doubt, what I am requesting from you, are details of the evidence upon which NCPP have relied, in order to make the recommendation to senior police officers, such as is detailed and referred to in the response I received from Police Scotland to which I am referring.

I therefore look forward to your urgent compliance

**NPCC Internal Review Response:**

I have reviewed the original response and your grounds for an internal review.

The purpose of this internal review is to assess whether your request was handled correctly and that the response fully complied with the FOIA. This includes evaluating the initial response, identifying any relevant information that might have been missed and assessing whether the applied exemptions are justified.

Having reviewed the NPCC S17 response and your FOI request, I appreciate both arguments. It also appears, notwithstanding the NPCC response, a significant amount of advice and assistance, including information relating to your request has been provided, which appears in scope of the request.

In hindsight, additional communication with you via email may have been beneficial to enable us to check our understanding before our refusal notice.

The Police Scotland FOI response you provided, has caused some confusion and likely made, what information you were seeking, being over looked or misconstrued. For transparency and clarity for this internal review, I have inferred, that, the NPCC do not need sight of the attachment that Police Scotland made reference to in Part 1 of your FOI request to them. Instead, focusing on part 2 of Police Scotland response, and your follow up FOI request to the NPCC is to:

**Please provide us with;**

- (1) full particulars of the advice provided by NPCC as is referred to above,**
- (2) details of the evidence considered in arriving at decisions upon which such advice issued was based and**
- (3) any relating communications and/or meeting minutes etc. in respect of the formulation and issue of the said advice, including any communications received by the NPCC from Home Office or other Government/ministerial sources in such respect.**

I have sought consultation from colleagues as to whether they hold any information in relation to Parts 1, 2 or 3 as stated above.

As a result, I have amended our response and can confirm that the NPCC does hold recorded information captured by part of your request.

In part, this has been already provided to you in our initial response.

**Part 1 - full particulars of the advice provided by NPCC as is referred to above**

See attached documents:

- Q1 Anti Vax Protest Briefing note for forces *Minor redactions made S40(2) and S31(1)(a)*
- Q1 Embedded doc NpoCC SIB Covid 19 Anti vaccination *redactions made S40(2) and S31(1)(a)*
- Q1 Anti Vaccination Briefing note *redactions made S40(2) and S31(1)(a)*

**Part 2 - details of the evidence considered in arriving at decisions upon which such advice issued was based and**

The NPCC does not hold information captured by this request. In wishing to advise and assist, a consideration is for you to make a Freedom of Information request with the Metropolitan police service. I do not have their details for FOI however they will be available [here](#)

**Part 3 - any relating communications and/or meeting minutes etc. in respect of the formulation and issue of the said advice, including any communications received by the NPCC from Home Office or other Government/ministerial sources in such respect.**

See attached documents:

- FW\_Anti Vax Letter
- FW\_Full Fact Time Sensitive, false claims of live investigations into vaccines

*Both have minor redactions S40(2)*

**Conclusion:**

The purpose of an internal review is to allow the NPCC to review, and, where necessary, to revise the response.

I have reviewed and I am pleased to be able to provide some information in scope of your request. I hope the explanation above has helped explain the reason for the response in this case. Thank you for your patience whilst this review was undertaken.



Ashleigh Beney  
NPFDU Head of Unit  
NPCC



National Police Chiefs' Council

### **Right of Appeal**

If you remain unhappy about how your request has been handled you have the right to apply directly to the information Commissioner. For information on how to make an application to the Information Commissioner please visit their website at [www.ico.org.uk](http://www.ico.org.uk) alternatively, write to or phone:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF  
Phone: 0303 123 1113

## Annex A

Section 17 of the Freedom of Information Act 2000 requires the NPCC, when refusing to provide information by way of exemption in question and (c) states why the exemption applies. In accordance with the Freedom of Information Act 2000 this letter acts as a refusal notice to those aspects of your request.

### **The legislation: Section 31 Law Enforcement**

- (1) Information which is not exempt information by virtue of section 30 is exempt information if its disclosure under this Act would, or would be likely to, prejudice -
  - (a) the prevention or detection of crime
  - (b) the apprehension or prosecution of offenders

Disclosure of this information would enable those with criminal intent to target specific areas of the UK to conduct their criminal or terrorist activities. This would also enable criminals to take measures to counteract the tactical capabilities of police forces.

Disclosure of this information would have the likelihood of identifying specific vulnerabilities, which would ultimately compromise police tactics, operations and future prosecutions. Any information identifying the focus of policing activity could be used to the advantage of terrorists or criminal organisations. Information that undermines the operational integrity of these activities will adversely affect public safety and have a negative impact on law enforcement. Public safety would be put at risk if criminals were able to counteract police tactics. The NPCC is committed to demonstrating proportionality and accountability.

Any information that could impact or undermine ongoing investigations or any future investigations would enable targeted individuals / groups to become tactically aware of the police capabilities. This would help subjects and avoid detection, and inhibit the prevention and detection of crime.

The NPCC will not disclose information which may hinder the effective management of law enforcement or place staff or officers at risk. Whilst there is a public interest in the transparency of policing operations and in this case providing assurance that the police service is appropriately and effectively managing this area of policing, there is a very strong public interest in safeguarding the tactical abilities.

The prevention and detection of crime is the foundation upon which policing is built and the police service have a clear responsibility to prevent crime and arrest those responsible for committing crime or those that plan to commit crime. Disclosure of information captured by this request could directly influence the stages of that process, and jeopardise current investigations or prejudice law enforcement.

### **The legislation: Section 40 Personal Information**

- (1) Any information to which a request for information relates is exempt information if it constitutes personal data of which the applicant is the data subject.
- (2) **Any information to which a request for information relates is also exempt information if**
  - (a) **it constitutes personal data which does not fall within subsection (1), and**
  - (b) **the first, second or third condition below is satisfied.**

(3A) The first condition is that the disclosure of the information to a member of the public otherwise than under this Act—  
(a) would contravene any of the data protection principles, or  
(b) would do so if the exemptions in section 24(1) of the Data Protection Act 2018 (manual unstructured data held by public authorities) were disregarded.

(3B) the second condition is that the disclosure of the information to a member of the public otherwise than under this Act would contravene Article 21 of the GDPR (general processing: right to object to processing).

Any information to which a request for information relates is also exempt information if it constitutes personal data which do not fall within subsection (1), and either the first or the second condition is satisfied.

S40(2) applies to third party personal data. Any release would breach the data protection principles contained within the Data Protection Act 2018. S40(2) has been engaged by virtue of S40(3)(a)(i). Any disclosure of withheld information would breach the first data protection principle of fair and lawful processing.

This is an absolute exemption and there is no requirement to apply the public interest test.

### **Legislation – Section 16**

- (1) It shall be the duty of a public authority to provide advice and assistance, so far as it would be reasonable to expect the authority to do so, to persons who propose to make, or have made, requests for information to it.



# Anti-Vaccination Activity

Date of Activity: 20<sup>th</sup> / 21<sup>st</sup> January 2022

<b>Authors</b>	NPOCC SIB
<b>Sign Off</b>	NPOCC SIB
<b>Freedom of Information (FOI)</b>	
This document (including attachments and appendices) may be subject to an FOI request and the NPCC FOI Officer and Decision Maker will consult with you on receipt of a request prior to any disclosure. For external Public Authorities in receipt of an FOI, please consult with <b>S40</b> .	
<b>Handling Conditions</b>	
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## Introduction

This briefing note is being circulated following a series of online posts by a number of conspiracist groups calling for actions against COVID-19 Vaccination sites within the UK.

## Information

[Redacted]

S31

S31

S31

[Redacted]

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## Common Law Constables

The activity and rhetoric of these advertised actions is consistent with an area of conspiracist ideology relating to the creation of the role of Common Law Constables. The role emanates from the Sovereign Citizen and Freeman of the Land movements, whose followers believe that they are only governed by common law, and have created the role of Common Law Constable to 'police' their beliefs.

The Common Law Court, as created by the CLC Peace Service, is not recognised within law. The concept of a Common Law / Peace Constable has no legal basis and those claiming to hold this office have no additional rights or powers. Individuals may assume a role of a steward / security on a march but this will not give them any additional rights and they will be liable to arrest in the same way as any other member of the public.

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**From:** [REDACTED]  
**To:** [REDACTED]  
**Subject:** FW: Full Fact: Time sensitive, false claims of live investigation into vaccines ([REDACTED])  
**Date:** 16 June 2025 15:12:41  
**Attachments:** [image001.jpg](#)  
[image002.png](#)

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OFFICIAL

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OFFICIAL

**From:** Owen Weatherill  
**Sent:** 30 April 2025 10:07  
**To:** [REDACTED]  
**Subject:** FW: Full Fact: Time sensitive, false claims of live investigation into vaccines  
[REDACTED]

OFFICIAL

**Owen Weatherill KPM M.St (Cantab)**  
**NPCC lead for the Covid Public Inquiry**  
**NPCC**  
**50 Broadway**  
**London**  
**SW1H OBL**

[REDACTED]  
Email: [REDACTED], so I do not respond to emails regularly. If  
your enquiry is urgent, please contact [REDACTED]

---

OFFICIAL

**From:** [REDACTED]  
**Sent:** 14 February 2022 14:16  
**To:** Owen Weatherill [REDACTED]; Press Office  
[REDACTED]  
**Cc:** [REDACTED]  
[REDACTED]  
**Subject:** RE: Full Fact: Time sensitive, false claims of live investigation into vaccines [REDACTED]  
[REDACTED]

Afternoon all,  
We have not been formally recording numbers of attempts to follow this process across the country. Our latest assessment shows that it is still occurring, it would appear that the guidance to not record has been a success as only one additional report has been created. (West Yorks. as below).  
Regards  
[REDACTED]

---

**From:** Owen Weatherill [REDACTED]  
**Sent:** 14 February 2022 13:52  
**To:** Press Office [REDACTED] - NPoCC HQ

[REDACTED]  
Cc: [REDACTED]  
[REDACTED]

**Subject:** RE: Full Fact: Time sensitive, false claims of live investigation into vaccines [REDACTED]  
[REDACTED]  
[REDACTED]

I'm slightly behind the curve as I was on leave last week, so I'll ask [REDACTED] to add anything relevant to assist with shaping the response. But in broad terms to answer the four question, I've added some text in red below.

[REDACTED] – can you weight in and correct me if things have changed in the last week pls.

Regards,

Owen

**Owen Weatherill M.St (Cantab)**

**Assistant Chief Constable**

**National Mobilisation Coordinator & Op Talla Silver**

**NPCC lead for Civil Contingencies**

**NPoCC**

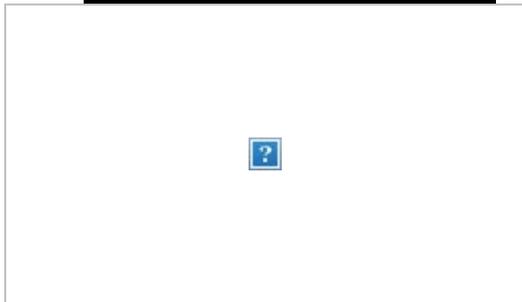
**10 Victoria Street**

**London**

**SW1H ONN**

**M:** [REDACTED]

**Email:** [REDACTED]



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**From:** Press Office [REDACTED]

**Sent:** 14 February 2022 13:37

**To:** [REDACTED]

**Cc:** [REDACTED]  
[REDACTED]

**Subject:** FW: Full Fact: Time sensitive, false claims of live investigation into vaccines [REDACTED]  
[REDACTED]

Hi Owen,

We've had the below from Full Fact on anti-vax claims. We have of course provided them with a statement previously (included [here](#)). However, they want to know if we are able to answer:

- Does the NPCC have an estimate for how many incidents of police officers being served with this "evidence" there have been? **I have no idea how many attempts have been made, but to my knowledge only 2 records have formally been recorded by police forces. The MPS one everyone already know about, and a second in W Yorks recorded on 29/1/22**
- What is the NPCC's position on this sort of campaign by anti-vaccine activists? **We should use some of the existing NPCC quotes on protest and freedom of speech here, but caveated with a warning about where police can and will step in when offences are or are likely to be committed. You should have some stuff on record from [REDACTED]**

that we can draw on which will ensure we remain consistent with earlier lines

- Has the NPCC been contacted directly by campaigners? If yes, could you please describe the nature of the correspondence? **Not into the NPCC directly that I'm aware of – albeit we know that Chief Constables were written to directly before Xmas**
- Are police officers given training to help them deal with evolving misinformation tactics such as this? **Officers are trained to deal with protest in many forms, and also how to engage with protestors to facilitate lawful protest where appropriate. As misinformation has appeared and been circulated, this is shared with forces to enable them to brief their staff appropriately. An example of this is the emergence of “peace constables” and “common law constables”, and forces have been given legal guidance that these two terms are not recognised in law, and have no legal standing.**

Any clarification you can provide on those would be very useful.

Best,

█



█

Public Affairs Manager | *Rheolwr Materion  
Cyhoeddus*  
National Police Chiefs' Council | *Cyngor  
Cenedlaethol Prif Swyddogion Heddlu*

█

---

**From:** █

**Sent:** 14 February 2022 13:16

**To:** Press Office █

**Subject:** Full Fact: Time sensitive, false claims of live investigation into vaccines █

Hello,

I am a journalist at [Full Fact](#) and am getting in touch as I'm looking into the false claims made by anti-vaccine activists that there is a live criminal investigation into the vaccine, often shared alongside the "crime reference number" █

We have written about cases of people falsely claiming there is a live investigation several times before ([here](#), [here](#) and [here](#)), but have seen this claim spread more widely over the past week or so.

Police officers have repeatedly been "served" by campaigners with "evidence" detailing the extent of alleged injuries caused by the vaccine. In some cases, the activists have been given crime reference numbers, bolstering claims that there is a legitimate investigation underway. Surveillance of social media groups also shows that people are being actively encouraged to continue "serving" police forces with these bundles of "evidence", and police stations are being repeatedly contacted to confirm whether or not there is a live investigation.

Could you please let me know:

- Does the NPCC have an estimate for how many incidents of police officers being served with this "evidence" there have been?
- What is the NPCC's position on this sort of campaign by anti-vaccine activists?
- Has the NPCC been contacted directly by campaigners? If yes, could you please describe the nature of the correspondence?
- Are police officers given training to help them deal with evolving misinformation tactics such as this?

If you could please get back to me by my deadline of **12pm tomorrow** that would be a huge help.

Best wishes,



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**From:** [REDACTED]  
**To:** [REDACTED]  
**Subject:** FW: Anti Vax Letter  
**Date:** 06 May 2025 12:28:43  
**Attachments:** [image001.jpg](#)  
[image004.jpg](#)

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OFFICIAL

**From:** Owen Weatherill  
**Sent:** 30 April 2025 10:07  
**To:** [REDACTED]  
**Subject:** FW: Anti Vax Letter

OFFICIAL

**Owen Weatherill KPM M.St (Cantab)**  
**NPCC lead for the Covid Public Inquiry**  
**NPCC**  
**50 Broadway**  
**London**  
**SW1H OBL**  
**M: 07514 916415**

Email [REDACTED]

[REDACTED], so I do not respond to emails regularly. If  
**your enquiry is urgent, please contact [REDACTED] or**  
[REDACTED]

---

OFFICIAL

**From:** [REDACTED]  
**Sent:** 16 February 2022 13:01  
**To:** Owen Weatherill [REDACTED]  
**Subject:** FW: Anti Vax Letter

Afternoon FYI this will trigger backlash but it is now complete  
Regards,

**T/Deputy Assistant Commissioner Jane Connors QPM.**

**COVID Lead.**

MetPhone [REDACTED] | Mobile [REDACTED] | Email [REDACTED]

**Address** 3rd Floor, New Scotland Yard, 1-8 Richmond Terrace, Westminster, SW1A 2JL

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---

**From:** [REDACTED]

**Sent:** 16 February 2022 10:16

**To:** [REDACTED] Frontline Policing Headquarters [REDACTED]

**Cc:** [REDACTED] Central Specialist Crime  
[REDACTED] HQ Directorate of Media & Communication  
[REDACTED]

**Subject:** FW: Anti Vax Letter

Dear Ma'am,

Please find below a draft of the press lines which DMC wish to issue proactively once the letter has been sent.

Please can you confirm that you are happy to approve the proposed press lines and confirm that these can be used proactively.

Submitted for your consideration/approval:

**DRAFT FOR OFFER:**

**UPDATE: Allegations made relating to the UK Covid-19 vaccine programme**

No further action will be taken following an assessment of allegations made about the UK's Covid-19 vaccine programme.

On 20 December, a number of documents were submitted at a west London police station in support of claims that alleged people in the UK Parliament and other organisations had suppressed information about the severity of health implications for those taking the Covid-19 vaccine.

It was suggested, by the complainants, that offences including gross negligent manslaughter and misconduct in a public office may have taken place.

Following an assessment of all the available evidence, it is clear that no criminal offences are apparent. The Metropolitan Police will not be launching a criminal investigation and no further action will be taken in relation to the allegations.

The complainants have been written to, informing them of this decision.

**Deputy Assistant Commissioner Jane Connors said:** "The vaccines in use against Covid-19 have been approved by all the relevant national and international regulatory bodies. They underwent multiple trials and were subject to stringent approval processes. They are in use in more than 100 countries.

"We have found no evidence to support any claims that information about adverse health implications is being suppressed or withheld from the public in the manner that was alleged.

"In recent months, the existence of a crime reference number in relation to these allegations has been widely misrepresented as evidence of a criminal investigation or of findings of wrongdoing. That is not the case.

"There have been a number of incidents where individuals quoting this crime reference number have attended vaccination centres, hospitals and other locations in an effort to disrupt the UK's vaccination programme. That is unacceptable.

"Staff and volunteers working in these places are doing a vitally important job and have the right to do so free from attempts to threaten, intimidate or otherwise disrupt them. Efforts to do so will not be tolerated by the Met or our partners across the country."

Kind regards,

[REDACTED]

[REDACTED] **Detective Chief Inspector**

AW Reactive CID

Hammersmith Police Station, 226 Shepherds Bush Road, London, W6 7NX

Mobile: [REDACTED]

| Email : [REDACTED]

---

**From:** [REDACTED] HQ Directorate of Media & Communication

[REDACTED] On Behalf Of Press Bureau

Sent: 16 February 2022 07:21

To: [REDACTED]

Subject: RE: Anti Vax Letter

Morning [REDACTED]

Thanks for sharing this letter.

Given the significant national and international coverage of this one the expectation will be that we'll issue our lines proactively once the letter has gone.

I've drafted the below for DAC Connors to sign off:

**DRAFT FOR OFFER:**

**UPDATE: Allegations made relating to the UK Covid-19 vaccine programme**

No further action will be taken following an assessment of allegations made about the UK's Covid-19 vaccine programme.

On 20 December, a number of documents were submitted at a west London police station in support of claims that alleged people in the UK Parliament and other organisations had suppressed information about the severity of health implications for those taking the Covid-19 vaccine.

It was suggested, by the complainants, that offences including gross negligent manslaughter and misconduct in a public office may have taken place.

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"We have found no evidence to support any claims that information about adverse health implications is being suppressed or withheld from the public in the manner that was alleged.

"In recent months, the existence of a crime reference number in relation to these allegations has been widely misrepresented as evidence of a criminal investigation or of findings of wrongdoing. That is not the case.

"There have been a number of incidents where individuals quoting this crime reference number have attended vaccination centres, hospitals and other locations in an effort to disrupt the UK's vaccination programme. That is unacceptable.

"Staff and volunteers working in these places are doing a vitally important job and have the right to do so free from attempts to threaten, intimidate or otherwise disrupt them. Efforts to do so will not be tolerated by the Met or our partners across the country."

[REDACTED]  
**Media and Communications Manager**

Press Bureau

Directorate of Media and Communications

Metropolitan Police Service

[REDACTED]  
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**From:** [REDACTED] AW-CU  
**Sent:** 16 February 2022 06:45  
**To:** [REDACTED] HQ Directorate of Media & Communication  
[REDACTED]  
**Cc:** Press Bureau [REDACTED]  
**Subject:** FW: Anti Vax Letter  
**Importance:** High

Hi [REDACTED]

I hope you are well – I am sharing the letter that we will be sending to the anti vax group re the CRIS report which is with Hammersmith CID. I am aware that DAC Connors will sign off any press lines but can we now work on updated lines to reflect the contents of the letter and we can then submit to DAC Connors for approval.

Kind regards,

[REDACTED]

[REDACTED] **Detective Chief Inspector**

AW Reactive CID

Hammersmith Police Station, 226 Shepherds Bush Road, London, W6 7NX

Mobile: [REDACTED] Email : [REDACTED]

---

**From:** [REDACTED]  
**Sent:** 15 February 2022 16:48  
**To:** [REDACTED] Frontline Policing Headquarters [REDACTED]  
[REDACTED]  
[REDACTED]  
**Cc:** [REDACTED] Central Specialist Crime [REDACTED]  
[REDACTED]  
[REDACTED]  
**Subject:** Anti Vax Letter

Dear Sir and Maam

Thanks to the hard work of [REDACTED] and her team and the support of [REDACTED] team we've now had a 'no crime' letter approved by [REDACTED] in the DLS. I propose to send this to the complainants at the end of this week. We will update press lines etc to time with this.

Best wishes

[REDACTED]

[REDACTED] | **Detective Superintendent | AW CID**

Charing Cross Police Station & Hammersmith Police Station | [REDACTED] | [REDACTED]

[If this email was unclear, unnecessary for you or too long – please do tell me](#)

[\[REDACTED\] so I sometimes send emails at odd times – there is no expectation at all that anyone responds outside of their working hours](#)

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<b>Author:</b>	ACC Owen Weatherill
<b>Force/Organisation:</b>	Op Talla Silver & National Mobilisation Coordinator NPoCC
<b>Date Created:</b>	18 January 2022
<b>Work Stream or Strategy Group (if applicable):</b>	
<b>Attachments (list if applicable)</b>	N/A
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**FAO – Chief Constables, Force Duty Gold Officers**

**Potential for imminent organised targeted criminal activity at vaccination centres and schools this week**

Colleagues,

Over recent weeks there has been a noticeable change in some of the Anti-Vax protest activity both in terms of online rhetoric as well as physical tactics. Several groupings are emerging online advocating aggravated tactics, confrontations, threatening staff, criminal damage, threats to 'common law arrest' vaccination centre staff and police officers. There have also been attempts to report 'criminal' offence complaints with Forces to engage the police in investigations relating to the vaccination programme. Whilst much of this rhetoric is occurring online there have been some examples of criminal activity – a recent 'storming of a COVID Test centre in Milton Keynes being an example.

[REDACTED]

[REDACTED] [REDACTED] [REDACTED] [REDACTED]

[REDACTED] **S31** [REDACTED]

[REDACTED]

[REDACTED]

Of course, in the online space it is hard to assess with accuracy the actual level of support and the real-world capability of such groups, however there has been a notable uptick in activity and talk of this nature, and we do not believe it can be readily dismissed.

NPoCC have consulted with NPCC POPS and Protest leads and all are quite clear that the actions being advocated if carried out are **NOT** lawful protest, but unlawful criminal activity, likely to include public order offences, OAP, criminal damage, harassment, and intimidation etc. and should be proactively policed to ensure the safety of those providing vaccine services, to maintain the programme and ensure public safety and confidence.

A copy of the NPoCC SIB intel briefing note including background. In particular, I would draw your attention to the legal advice within this briefing note related to the concept of "Common Law Constables" and alleged

associated powers. You may find this useful to assist with briefing your staff for any encounters they have with activists asserting that they have such powers.



Anti-Vaccination  
Briefing note OFFIC

### **Actions for consideration/implementation**

In light of the increased sentiment and likelihood of more aggressive tactics, all forces are now requested to consider the following:

1. Through your existing LRF structures for engaging with vaccine roll out partners please arrange **an urgent meeting** to brief partners re the potential for this activity this week. The briefing note above may be shared with partners to assist with this process.
2. Review your incident response plans/arrangements for vaccination centres in your Force area, including availability of additional resources to respond to calls for service and proactive visibility of police at vaccine centres.
3. Consider putting in place a GSB Command structure and Op to ensure consistent Force wide approach. Operational responses should focus on proactive policing not facilitation of actions which are NOT protests. Of course, activity that is lawful peaceful protest should be policed proportionately in line with our HRA obligations.
4. Ensure Vaccine Centre service providers have reviewed their own site security arrangements in light of this potential activity (a separate is also briefing is being circulated by DHSC to vaccination sites)
5. Gather and review local intelligence, including local SM activity to identify any local threats/online chatter. Attached is the RFI from NPoCC SIB. **This relates specifically to this imminent activity, and we would ask that it is completed and returned with any intel ASAP.**



Any activity on Thursday 20th / Friday 21<sup>st</sup> January along the lines threatened should be immediately reported to NPoCC SIB to allow situational awareness and briefing to HMG partners who are aware of these threats.

6. Prepare local comms lines/plan with partners which clearly distinguishes this as criminal activity not lawful or proportionate protest. The lines below have been agreed by NPCC for reference.

### **A National Police Chiefs' Council Spokesperson said:**

*"We are aware of incidents where individuals have sought to intimidate and serve papers on staff and volunteers working in settings related to the Covid-19 vaccine. We are also aware of individuals attending police stations to report what they believe to be criminal offences relating to the Covid-19 vaccine.*

*"Police have a long history of upholding the right to freedom of expression. This must be balanced with the rights of others, keeping the public safe, preventing crime and disorder, and seeking to minimise disruption.*

*"Any efforts to intimidate, harass, or commit assault against emergency service workers, staff and volunteers will not be tolerated and will be treated and investigated as a criminal matter by police forces."*

Notes:

- The Metropolitan Police Service have to date found nothing to indicate that a crime has been committed in relation to the Covid-19 vaccine. No criminal investigation has been launched as has been claimed by some activists online. We do not believe that papers served to date have any legal standing.
- Our guiding principles are maximising the safety of everyone involved, preventing criminal behaviour or disorder and deescalating tensions.

**Anti Vax 'criminal complaints'**

Forces maybe aware of or have received themselves 'complaints' from Anti-Vax activists and in some cases referencing a 'crime number' from the Metropolitan Police.

The 'complaint' received by the MPS on 20<sup>th</sup> December is actively being inaccurately reported on social media channels by Anti-Vax activists – I can confirm that currently **NO** investigation has been initiated. Following receipt of several 1000 pages of generic documentation a 'review process' of the content is having to be conducted. To date the MPS report that **nothing has been found in the documentation to suggest any offences or grounds for a police investigation.**

MPS have agreed comms lines in relation to this matter as follows on an "if asked basis". It has also been agreed that should other forces receive media enquiries related to the MPS report, that forces may also draw on and use the lines below –

***On 20 December, a number of documents were submitted at a west London police station in support of allegations of criminality in relation to the UK's vaccine programme.***

***A crime reference number was created and provided to the complainants. This is not an indication that an investigation is under way or that a crime has been committed, it merely acknowledges that an allegation has been received and recorded.***

***Officer's have been tasked with reviewing the documents. This process is time consuming and has been prolonged by the submission of further documents by people encouraged to do so online.***

***While the assessment continues, to date there is nothing to indicate that a crime has been committed and no criminal investigation has been launched.***

***We are aware of a recording posted online in which a Met Police call handler answers yes to a question asking her to confirm the existence of an ongoing investigation. The call handler misspoke. No criminal investigation has been launched.***

NPoCC continue to work closely on policing's behalf with the NHS and DHSC teams responsible for vaccine programme security and whilst we are conscious that briefing the potential for this activity could lead to increased concern and fear within vaccine partners, we are in agreement that there is a realistic threat of this activity occurring and need to raise awareness and be in a position to respond effectively.

For information and necessary action.

Kind Regards

S40

**ACC Owen Weatherill**

Operation Talla Silver and National Mobilisation Coordinator

# NATIONAL REQUEST FOR INFORMATION

Covid-19 Anti-Vaccination Activity	
<b>URN:</b>	NPoCC/SIB/RFI/19/2022
<b>Requesting Unit:</b>	NPoCC - Strategic Intelligence & Briefing (SIB)
<b>Contact Details:</b>	NPoCC SIB Email: S40
<p>This Request for Information (RFI) is made by NPoCC SIB to all police forces in relation to anti-vaccination activity, as a result of the national Covid-19 vaccination programme, which will inform a national assessment of current and emerging issues in respect of this theme.</p> <p>NPoCC SIB has the national remit for assessing risk posed to Public Order / Public Safety events from Strategic Protest activity.</p> <p>Strategic Protest activity is considered likely to involve protest groups or campaigns which have the potential to engage in criminal activity linked to protest activity on a national or cross regional scale.</p> <p>Additionally, Strategic Protest will have the potential to impact policing in one or more of the following ways:</p> <ul style="list-style-type: none"> <li>• Significantly affect community tensions</li> <li>• Attract significant counter protest</li> <li>• Cause a significant adverse impact upon the UK economy or national infrastructure</li> <li>• Require the deployment of significant police resources.</li> </ul> <p>UK policing has various obligations associated with protest activity which are enshrined in both Human Rights legislation and within Common Law:</p> <ul style="list-style-type: none"> <li>• Protecting life or Property</li> <li>• Preserving order</li> <li>• Preventing or detecting offences</li> <li>• Bringing offenders to justice</li> <li>• Any responsibility arising from common or statute law</li> </ul>	

Information
<p>The launch of the UK Covid-19 vaccination programme generated a surge in activity by a variety of people and groups. These include those who are opposed to the vaccination for adults or children, mistrust the government, conspiracy theorists and those who champion medical freedoms.</p> <p>The programme has galvanised individuals to engage in a range of actions, including protests, organised marches, sending letters to schools and MPs and gatherings outside vaccination centres. Some of these events have attracted criminality and have presented a risk to public safety.</p> <p>A significant proportion of more militant tactics being utilised by anti-vaccination group are motivated by a small number of global conspiracy theories.</p>

A core belief of the majority of conspiracist groups within the UK centres on the belief that the Government are using COVID measures as means of exerting permanent control over their citizens. A small number of groups and individuals are increasingly adopting Freeman of the Land or Sovereign Citizen ideology, where they choose not to adhere to statute law or undertake activity imposed on them by the state. The resulting propaganda has resulted in increasing levels of militancy against anyone who opposes their viewpoint.

S31	
S31	[Redacted]

### Reporting Instructions

S31 [Redacted]

S31 [Redacted]

All responses are to be sent to NPoCC SIB by using the email address:

S31 [Redacted]

S31 [Redacted]

Please direct any questions regarding this Request For Information to:

S31 [Redacted]

## **UK Covid Inquiry disclosure**

### **Statement by Gregor McGill for the Crown Prosecution Service**

**Provides details of Operation Talla proximity to the Criminal Justice  
System Strategic Command**

Witness Name: Gregor McGill  
Statement No.: 1  
Exhibits: 3  
Dated: 12.05.23

## THE UK COVID 19 PUBLIC INQUIRY

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### Witness Statement of Gregor McGill

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I, Gregor McGill will say as follows:

1. I provide this statement on behalf of the Crown Prosecution Service ('CPS') in response to a request received on 22 November 2022 under Rule 9 of the Inquiry Rules 2006 to understand the role the CPS played in the enforcement, by way of prosecution, of the Covid Regulations and our actions during the Covid-19 pandemic ('the pandemic').

#### **Authority of Witness**

2. I have been the Director of Legal Services (DLS) at the CPS since 1 January 2016. I joined CPS London as a crown prosecutor in 1991 before progressing to the position of Branch Crown Prosecutor in 2001. In 2002 I left the CPS to join HM Customs and Excise. In 2005 I transferred to the newly formed Revenue and Customs Prosecutions Office (RCPO) and I set up and headed the Serious Organised Crime Division at RCPO in late 2005/early 2006. Following the merger of RCPO and CPS, I was appointed Head of the Fraud Prosecution Division at the CPS before taking on the role of Legal Director for CPS London in 2010. From 2012 until the end of 2015 I was the Head of the Organised Crime Division at the CPS.
3. At the time of the pandemic, I was one of two DLS's, and between us we had responsibility for line management of all Chief Crown Prosecutors ('CCP's) nationally and have ultimate responsibility for casework quality.

#### **Overview of the CPS**

4. The CPS is the independent Government Department responsible for prosecuting criminal cases investigated by the Police and other law enforcement agencies in England and Wales.
5. The CPS was created by the Prosecution of Offences Act 1985 and is headed by the Director of Public Prosecutions (DPP). As the principal prosecuting authority in England and Wales, the CPS is responsible for:
  - a) advising the Police and other law enforcement agencies on cases for possible prosecution;
  - b) reviewing cases submitted by the Police;
  - c) determining any charges in all but minor cases;
  - d) preparing cases for court, and
  - e) presenting cases at court.
6. The CPS operates across England and Wales, with 14 regional teams prosecuting cases locally ('CPS Areas'). Each of these 14 CPS Areas is headed by a CCP who is responsible for the day-to-day operation of their Area, working closely with local police forces and other criminal justice partners. CPS Direct (CPSD) is a 'virtual' 15<sup>th</sup> CPS Area, operating nationally to provide 'out of hours' charging advice to the police and other investigators. It is also headed by a CCP. Finally, we have three Central Casework Division that operate with national remit to cover specific casework such as counter-terrorism and organised crime; these are led by Heads of Division (equivalent to CCPs).
7. Areas are supported by a central headquarters team which includes our Operations, Digital, Strategy and Policy, Finance, Human Resources and Communications Directorates and the DPP's Private Office.
8. During the pandemic the CPS' role and structure remained unchanged. We continued to be responsible for the prosecution of criminal cases referred to us. However, the nature of the offences which were being investigated and referred to the CPS changed as new offences were created (see below).

## **Charging decisions**

### *The Code*

9. All criminal prosecutions brought by the CPS are governed by the Code for Crown Prosecutors ('the Code'). This is a public document which is laid before Parliament. The current version was issued in 2018.
10. The Code provides guidance to prosecutors on the general principles to be applied when making decisions about prosecutions. Prosecutors may only commence a prosecution when the case satisfies the Full Code Test. The test is set out in Chapter 4 of the Code. It has two stages: the first is the requirement of evidential sufficiency and the second involves consideration of the public interest.
11. To satisfy the first stage, a prosecutor must be satisfied that there is sufficient evidence to provide a realistic prospect of conviction. This means that an objective, impartial and reasonable jury (or bench of magistrates or judge sitting alone), properly directed and acting in accordance with the law, needs to be more likely than not to convict the defendant. It is an objective test based upon the prosecutor's assessment of the evidence (including any information that he or she has about the defence). If the case does not pass the evidential stage, then consideration of the public interest does not arise.
12. Only once a case has passed the evidential stage may the prosecutor go on to consider whether a prosecution is required in the public interest. It has never been the rule that a prosecution will automatically take place once the evidential stage is satisfied. However, a prosecution will usually take place unless the prosecutor is sure that there are public interest factors tending against prosecution which outweigh those in favour.
13. The Code sets out some common public interest factors tending for and against prosecution. However, assessing the public interest is not an arithmetical exercise involving the addition of the number of factors on each side and then making a decision according to which side has the greater number. Rather, each case must be considered on its own facts and its own merits. It is quite possible that one factor alone may outweigh a number of other factors which tend in the opposite direction. Even where there may be a number of public interest factors which tend against prosecution in a particular case, the prosecutor should consider whether the case should go ahead but with those factors being drawn to the court's attention so that they can be reflected in the sentence passed.

14. Prosecutors are supported in their decision making by centrally produced Legal Guidance, which is publicly available on our CPS website. Prosecutors should have regard to applicable policies and guidance when making their decision on charge.

#### *Director's Guidance*

15. Since 2004 the CPS has been responsible for providing authority to charge in all but minor cases, where the police can make the decision to charge. The DPP can issue guidance to the police in respect of the making of charging decisions. The first such Guidance, known as the Directors Guidance on Charging, was issued in May 2004 and explained how and in what circumstances the CPS would provide charging advice. The current Guidance (the 6<sup>th</sup> Edition) was issued in December 2020. The guidance sets out the roles and responsibilities of the police and prosecutors when seeking charging advice and details the type of charging decisions which the police can make themselves without the need for CPS authority. It sets out how and when advice can be sought from a prosecutor, and the material to be submitted in order to seek that advice.
16. During the pandemic, the new covid related offences which were developed were "summary only" offences. This means that, in line with the Director's Guidance on Charging (the fifth edition applied until 31 December 2020), the police were authorised to charge all offences under the Regulations without CPS involvement (further details below).

#### *Legal Guidance*

17. A large number of new criminal offences were introduced as part of the Government's response to the pandemic. These are contained in the Coronavirus Act 2020 ('the Act') and various Coronavirus Regulations ('the Regulations'), with separate Regulations for England, Wales and local areas.
18. The CPS produces legal guidance to support prosecutors to make fair, consistent charging decisions. The CPS produced extensive legal guidance in relation to all of the new criminal offences, save for those contained in Regulations covering specific local areas, and some of those which would be prosecuted only by local authorities. The development of this guidance was carried out at far greater speed than usual, due to the changing nature of the pandemic and the Government response in laying new and amended Regulations. This is discussed in more detail, below.

## Corporate response

### ***Criminal Justice System Strategic Command (CJSSC)***

19. During the pandemic, the main CPS engagement in cross-government co-ordination was through the Criminal Justice System Strategic Command (CJSSC). The CJSSC was set up by the Ministry of Justice (MOJ) Departmental Operations Centre.
20. The role of CJSSC was to “take overall responsibility for the multi-agency management of an incident or crisis, establish a common policy and strategic framework within which each contributing agencies command function will operate.” The CJSSC was to feed directly into the General Public Services Committee, chaired by the Chancellor of the Duchy of Lancaster.
21. CJSSC ‘Gold Group’ included representatives from across CJS departments, including representatives from Public Health England. The CPS was represented by the Chief Executive Officer (CEO), though executive Directors attended when the CEO was unavailable. I attended on occasion.
22. CJSSC was formally initiated on 16 March 2020 with regular (daily) meetings to start with that moved to less frequent (around 3 times / week from mid-April), then to weekly meetings from early July. CJSSC was stood down from 12 August 2020 until 30 September 2020, when the re-emergence of the virus and variants required it to be stood-up again. Thereafter it met in a weekly rhythm until well into 2021. Around September 2021 CPS representation was delegated down to Deputy Director level by the CEO. It ceased in around February 2022.
23. The group established ‘silver’ and ‘bronze’ sub-groups who provided regular strategic updates from each department represented. The CPS provided key updates relating to
  - Demand management – for example, the volume of staff not at work (abstraction rate)
  - Communications and Data – for example, the number of cases with the CPS, whether increasing or decreasing and any geographical pressures

- Progress on Silver group activities – generally from the Legal Decision-Making group, Technology Enabled group, Custody Time Limits group, Legal practitioners group and Victims and Witnesses group.
24. At 'Silver group' level a number of working groups were set up, including the following:
- **Legal Decision Making** - To ensure that mechanisms for taking legal decisions are maintained by reducing resource requirements, widening the pool of individuals that can take these decisions, delaying/reducing the need for legal decisions.
  - **Technology Enabled/ Video Enabled Justice** - To ensure that use of video hearings is maximised as far as possible by:
    - ensuring that all partners are aware of the video capability available in each court region (covering police, court and prison capability)
    - maximising the capacity of video court hearing technology within HMCTS
    - maximising the use of video hearing capacity within police, HMCTS, HMPPS
    - identify other operational tasks that could be undertaken remotely eg criminal court resulting (HMCTS)
  - **Custody Time Limits** - To identify key limits where flexibility will prevent individuals breaching requirements for reasons outside their controls; enable workload peaks to be reduced.
  - **Legal Practitioners** - To bring together views, concerns & issues from legal practitioners and to work through them as well as two-way information sharing to ensure the CJS operates as smoothly as possible.
25. I chaired the Custody Time Limits Silver Group and my fellow DLS chaired the Legal Decision-Making Silver Group. The groups started meeting on/around 23 March 2020; the work of the groups was largely done via email and telephone conferences. After an initial flurry of activity, the work of the groups became more ad hoc. The key value of these groups was to get senior stakeholders from across CJS departments together to make strategic decisions and share information. Over time, the groups naturally changed or spurred new working groups depending upon the priorities at the time.

26. It was within this Silver Group structure that the CPS made decisions which resulted in the publication of the Interim Charging Protocol and Case Review Guidance (for which see below).

***General Public Services Ministerial Implementation Group (GPS-MIG)***

27. The DPP was invited to attend GPSMIG meetings on an ad hoc when the topic was relevant to CPS. The DPP first joined one of these calls on 31 March 2020. The CPS provided headline statistics or flagged operational issues identified from daily internal management calls.

***Covid-19 Operations Committee Meeting (Covid-O)***

28. The CEO was invited to Join the Covid-O meeting on 15 January 2021. This meeting focussed on the Court System (compliance and enforcement). The purpose of the discussion was for Ministers to understand the extent of the backlog in the courts system and agree how cases related to breaches of Covid rules could be expedited. The Agenda included papers from the Home Office and Ministry of Justice. One outcome of that meeting was that the Attorney General agreed to specify further covid-related offences to use the Single Justice Procedure (for which, see below).

***National Economy and Recovery Taskforce***

29. Later in 2021, the CPS were also engaged in the National Economy and Recovery Taskforce (NERT) Public Service (PS) meetings on different topics on occasion. The DPP and/or CEO were involved in/contributed to NERT meetings on CJS backlogs, CJS recovery and RASSO in March 2021.

**Interim Charging Protocol [INQ000084078]**

30. At the beginning of the pandemic, we held regular calls with our CCPs to cascade information and identify issues and pressures across CPS Areas. On 17 March, the Lord Chief Justice announced that all Crown Court cases due to last three days or more, starting before the end of April 2020, would be adjourned and on 23 March 2020 that no new jury trials would start. We discussed the impact of this on a CCP call that same day and it was agreed that a small group of CCPs would meet to look at how we could assist

by way of charging prioritisation. I oversaw this work reporting in to the Legal Decision Making Silver group.

31. It was immediately apparent that the pandemic would prevent cases from progressing through the courts, in the normal way. It was equally apparent that criminal activity would not cease, although some aspects would inevitably reduce. There was particular concern amongst all engaged in criminal justice (police, CPS, HMCTS and judiciary) that forcing everyone to stay at home would pose a significant threat of an increase in domestic abuse. There would also be threats posed by those who wished to take advantage of the crisis, particularly in on-line activity.
32. The CPS could have simply continued to charge cases that were already in the system, waiting to be charged, using the existing agreed timescales. However, that would have contributed to a greater blockage in the court system than had existed previously. With bailed defendants, witnesses, advocates, courts staff, judiciary and jurors all potentially experiencing difficulty in attending court, the potential for delay was immense.
33. We decided that a Protocol ought to be developed to categorise cases as high, medium and low priority (based on a risk/harm approach) for charging decisions to ease the pressures at Court and ensure that high priority cases were able to get to Court quickly and to enable all agencies to effectively deploy resources.
34. The Protocol devised three categories of cases, based on risk to the public and set timescales for directing those cases into court. The rationale for choosing cases in each category is explained in the protocol itself and includes case examples. The choice of cases for each category was based upon the collective knowledge and experience of senior prosecutors and police officers who all had input into the final document. It focused attention on high-risk, high-harm cases and ensured they were prioritised. It was, in our view, a logical and sensible approach to mitigate the risk posed.
35. A Draft Interim Charging Protocol was drafted, and underwent a series of amendments and changes, as it was considered by those in the working group and also following discussions with other agencies, including the NPCC lead on charging and the NPCC lead on Criminal Justice. It was also shared with colleagues from MOJ and HMCTS and discussed at the Silver meeting on 27 March 2020. It was shared with the CJSSC Gold Group and the NPCC Gold Command on 30 March.

36. On 31 March 2020 we published the **Covid 19 Interim Charging Protocol** on the CPS website, it became operational on 1 April. It provided that all 'coronavirus-related' cases would be dealt with by the CPS as 'immediate' Category A cases for the purpose of obtaining a charging decision, whether suspects are to be kept in custody or released on bail. Examples of 'coronavirus-related' cases are provided in the protocol and include assaults on emergency workers as well as coronavirus-related dishonesty and fraud. This ensured those offences with coronavirus-related aggravated features were in the highest category for priority charging decisions, alongside those where the police or other investigators were seeking a charging decision followed by a remand in custody.
37. Ahead of the launch the police developed a power point presentation for dissemination to all Forces to highlight the key changes. The Protocol was available on the CPS website, was sent directly to all CCPs and was sent to all Chief Constables and Criminal Justice leads by the NPCC Charging lead. It was also shared with all members of the Criminal Justice Board on 31 March.

#### **Interim CPS Case Review Guidance [INQ000084077]**

38. As set out above, the Code sets out how prosecutors make charging decisions. It also explains that the CPS has a duty of continuing review. This means that circumstances may change throughout the life of the case which impact on the application of the Code test. One aspect of the public interest test is that prosecutors should consider whether prosecution is a proportionate response
39. Shortly after the Interim Charging Protocol was published, we decided that it was also necessary to have some legal guidance on the application of the Code to draw prosecutor's attention to the type of public interest factors which may be applicable when reviewing cases in light of the impact of the pandemic.
40. In developing this guidance, the CPS consulted with/ sought the views of AGO, NPCC portfolio leads and the College of Policing. We also informed HMCTS, Judicial Office and the CJSSC Silver command. The Guidance was ultimately approved by the DPP.
41. The Interim Case Review Guidance was published on 14 April 2020. It was publicly available on our CPS website. A notification was sent to all prosecutors by email on the day of publication. We also shared directly with key stakeholders and parliamentarians.

42. The Case Review Guidance clarified that when reviewing a case and considering the public interest, prosecutors should note:
- *The crisis is producing an expanding pipeline of cases waiting to be heard.*
  - *Criminal proceedings and case progression are likely to be delayed. Significant delay may impact adversely on victims, witnesses and defendants, in some cases, may reduce the likelihood of a conviction.*
  - *Each case that is introduced into the system, or kept in the system, will contribute to the expanding pipeline and delay.*
43. By applying these factors, prosecutors were encouraged to consider whether there may be other courses which could be taken, such as an out-of-court disposal; and whether it may be appropriate to accept a guilty plea to some, but not all charges, or to a less serious offence.
44. We advised that the proportionality factor must be weighed with all other relevant public interest factors, such as the seriousness of the offence and the circumstances of and the harm caused to the victim, to form an overall assessment of the public interest (in accordance with the Code). The guidance cautioned that: *In the majority of cases, there will be no impact at all, and the public interest will lie with continuing the prosecution.*

### **Covid Act and Regulations**

45. On 18 March, our policy team were informed, via MOJ, that a Coronavirus Bill was due to be introduced to Parliament on 19 March. On 23 March 2020 the first National lockdown began and the CJSSC silver meetings started.
46. On around 24 March, my legal support team (the DLS team) started to engage with the staff officer to the NPCC lead for Charging about the new criminal offences which were due to commence with a view to ensuring we were ready to develop guidance once we had copies of the new laws.

### **Coronavirus Act**

47. The Coronavirus Act came into force on 25 March 2020. Its stated aim was to introduce new laws to protect public health, increase NHS capacity, strengthen social care and support the public to take the right action at the right time.

48. In accordance with the Act's sunset clause at section 89, many of the Act's provisions expired on 25 March 2022. These included the provisions relating to the main criminal offences in the Act. These offences related to:
- Potentially infectious persons being required to undergo screening (section 51 and schedule 21).
  - Secretary of State declarations and directions in relation to prohibitions, requirements and restrictions on events, gatherings and premises (section 52 and schedule 22). It should be noted that these are distinct from subsequent Covid Regulations that placed restrictions on gatherings and businesses.
  - Secretary of State directions in relation to the power to suspend the operation and management of an airport, seaport or an international rail terminal (section 50 and schedule 20).
49. The Act also included a number of provisions relating to Court hearings (e.g. enabling the use of live links for court hearings so parties could attend remotely).

Coronavirus Regulations [see schedule below for URNs].

50. Separate Regulations were created for all four jurisdictions of the United Kingdom. The CPS functions relate to the jurisdictions of England and Wales. The Regulations contain a number of summary-only criminal offences that relate to breaches or contraventions of a large number of restrictions, prohibitions, instructions and requirements imposed by the Coronavirus Regulations. These cover, for example, movement outside the home, gatherings, restrictions on businesses and services, face coverings, hospitality, self-isolation and international travel.
51. The Regulations were passed as emergency legislation under powers conferred by the Public Health (Control of Disease) Act 1984.

**The Coronavirus Regulations – England**

52. The following is a summary of the various types of Coronavirus Regulations that applied to England and contained criminal offences. It sets out the date of introduction and revocation, the number of Amendment Regulations, and the main requirements or

prohibitions, breach of which could amount to a criminal offence. Where reference is made to the revocation of Regulations, this will usually relate to the majority but not necessarily all of the restrictions, as particular restrictions were sometimes revoked on different dates.

## **Lockdown laws - Regulations containing restrictions on movement, gatherings and businesses**

- **The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020**

53. The first set of Regulations came into force on 26 March 2020, imposing the first national lockdown. They were amended on 5 occasions and revoked on 4 July 2020.
54. The main restrictions that were imposed formed the template for all subsequent lockdown Regulations, although they became far more complex. The restrictions related to:
  - *Restriction on movement*
  - *Restriction on gathering*
  - *Requirement to close businesses and premises*
  - *Restrictions on certain business activities*
55. It should be noted that some of the restrictions (e.g. those relating to business activities) were enforced and prosecuted by Local Authorities, not the CPS.
56. The Regulations contained enforcement powers for the police, such as directing a person to return to the place where they live and directing a gathering to disperse. The Regulations created new summary offences, where a person: contravened the requirements of stated Regulations without a reasonable excuse; obstructed a person carrying out a function under the Regulations without a reasonable excuse; or contravened a prohibition notice or direction or reasonable instruction given to a person without reasonable excuse. The offences are punishable by a fine. The police were given the power to arrest in relation to these offences.
57. An authorised person, such as a constable, was given power to issue a fixed penalty notice (FPN) if they reasonably believed that an offence had been committed by an offender aged 18 or over. A FPN provides an offender with the opportunity to discharge

any liability for the offence by paying a fine. If an offender accepts a FPN but does not comply with its terms, then after 28 days criminal proceedings can be instituted by the police. An individual does not have to accept a FPN and if they do not do so the police can issue criminal proceedings for the offence instead. It should be noted that FPNs are not automatic. The police can take the decision that the offence is so serious that they can charge straightaway, for example where there have been multiple offences.

58. The Regulations provided that the CPS may bring proceedings for an offence under the Regulations.

- **The Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020**

59. These Regulations came into force on 4 July 2020 and were mostly revoked on 14 October 2020. They were amended on 20 occasions.

60. The restrictions that were imposed were: a requirement to close businesses and premises; restrictions on gatherings, initially in relation to more than 30 persons in specific places, such as a private dwelling and certain indoor places; and a Secretary of State power to issue a direction to restrict access to a specific public outdoor space.

61. The restrictions on gatherings were by now quite complex and subject to regular amendment, such as introducing restrictions on organising or facilitating specific gatherings, and “the rule of 6”, whereby indoor and outdoor gatherings of up to 6 persons was allowed, and the prohibition in excess of that number subject to exceptions. Amendments also introduced the concept of participating in specific types of gatherings (relating to businesses, charities etc) as a member of a “qualifying group”, and the related concept of “mingling”, which was prohibited in relation to persons who were not a member of the same qualifying group.

- **The Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020**

62. These Regulations came into force from 18 July 2020, were amended on 20 occasions, and were revoked on 24 February 2022.

63. As these relate to Local Authority (LA) powers regarding premises, events and outdoor places, the CPS did not produce guidance for these Regulations.

- **The Health Protection (Coronavirus, Local COVID-19 Alert Level) (Medium) (England) Restrictions Regulations 2020 (Tier 1 Regulations)**
- **The Health Protection (Coronavirus, Local COVID-19 Alert Level) (High) (England) Regulations 2020 (Tier 2 Regulations)**
- **The Health Protection (Coronavirus, Local COVID-19 Alert Level) (Very High) (England) Regulations 2020 (Tier 3 Regulations)**

64. The “3 Tier” Regulations came into force on 14 October 2020, replacing the No.2 Regulations. They were amended on 3, 7 and 6 occasions respectively (Tiers 1, 2 and 3). Most provisions in the Regulations were revoked on 5 November.

65. They formed a new 3 Tier system, whereby every area of England was subject to restrictions on gatherings and businesses. The restrictions depended on which Tier that Area was placed in. Every Area was by default a Tier 1 Area (where the local COVID-19 alert level was assessed as being medium), unless they were excluded from the Tier 1 Area, by being identified as a Tier 2 Area (high alert level) or a Tier 3 Area (very high alert level).

66. The Tier 1 Regulations imposed restrictions on gatherings and businesses in the Tier 1 Area. The Tier 2 and Tier 3 Regulations imposed restrictions on gatherings and businesses in the relevant Tier Area and on gatherings elsewhere by persons living in the relevant Tier Area.

67. The system of tiers added a further layer of complexity for the police and prosecutors, as they needed to determine which tier a place was in at a particular time, and therefore which restrictions applied, before they could assess whether an offence may have been committed.

- **The Health Protection (Coronavirus, Restrictions) (England) (No. 4) Regulations 2020**

68. These Regulations came into force on 5 November 2020, imposing the second national lockdown. They were amended twice before being revoked on 2 December 2020.

69. Broadly, although complex, the Regulations imposed the usual restrictions on leaving home and indoor and outdoor gatherings; and required a number of businesses to close, whilst imposing restrictions on other businesses.

- **The Health Protection (Coronavirus, Restrictions) (All Tiers) (England) Regulations 2020**

70. Following the second national lockdown, a modified tier system (“All Tiers”) was introduced. The All Tiers Regulations came into force on 2 December 2020. They were amended on 10 occasions and were revoked on 29 March 2021.

71. Every area of England was subject to restrictions, depending on which Tier that area was placed in. Initially, there were 3 Tiers but on 20 December 2020 a fourth Tier with more severe restrictions was introduced. Measures to allow people to socialise over Christmas were introduced, although these did not apply to Tier 4. On 6 January 2021 all of England was put into Tier 4, to enforce the third and final national lockdown.

- **The Health Protection (Coronavirus, Restrictions) (Steps) (England) Regulations 2021**

72. The Steps Regulations came into force on 29 March 2021, at the end of the third national lockdown in England. They were amended on 3 occasions and revoked on 18 July 2021.

73. The Regulations provided a framework for the easing of the lockdown restrictions, via the three Step Areas; Step 1 being the most severe restrictions, and Step 3 the least severe. The intention was to keep all locations in England within the same Step and set of restrictions, starting with Step 1, then moving all locations at the same time from Step 1 to Step 2, and then to Step 3. Police and prosecutors needed to ensure that charging decisions were based on the Regulations in force in a particular Step area at the time the alleged breach was committed.

74. The Steps Regulations imposed restrictions on gatherings and businesses in England, and also a prohibition on leaving the UK without a reasonable excuse.

### **Local lockdown Regulations**

75. Between 4 July 2020 and 14 October 2020, the Government imposed a number of restrictions for certain local areas, via standalone Regulations. The rules differed in each area and were subject to a number of amendments. The local lockdown Regulations were revoked on 14 October 2020, to be replaced by the 3 Tier system.
76. The CPS did not produce national guidance in relation to these restrictions, as they applied only to specified protected areas.

### **International Travel Regulations**

- **The Health Protection (Coronavirus, International Travel) (England) Regulations 2020**

77. These Regulations came into force on 8 June 2020, were amended on 57 occasions and were revoked on 17 May 2021.
78. When introduced, the main requirements were: on arrival in England from outside “the common travel area” (the UK, the Channel Islands, the Isle of Man, and the Republic of Ireland), to provide passenger information on a Passenger Locator Form; and to self-isolate (usually at home) for 14 days or until departure from England. The schedules to the Regulations contained lists of persons exempt from the requirements.
79. Amendments to the Regulations made them increasingly complex, introducing for instance: a list of exempt countries and territories in relation to the requirement to self-isolate; reduction of the self-isolation period to 10 days; a requirement to possess notification of a negative test result; a requirement that individuals travelling from specified countries have a managed self-isolation package; and a requirement that individuals arriving in England in certain circumstances book and undertake mandatory tests. By the time the Regulations were revoked they had become highly complex, requiring a large amount of cross-referencing between the various regulations and schedules, including numerous exemptions, in order to ascertain the exact requirements on a particular person arriving in England on a specified date.

- **The Health Protection (Coronavirus, International Travel and Operator Liability) (England) Regulations 2021**

80. These Regulations came into force on 17 May 2021, were amended on 43 occasions and were revoked on 18 March 2022. They replaced the 2020 International Travel Regulations.
81. The 2021 Regulations imposed requirements on certain categories of person to provide information upon arrival in England, to take coronavirus tests before and after arrival, and to self-isolate. They also imposed obligations on operators to ensure that passengers received information and complied with the requirements.
82. The structure of these Regulations were changed a number of times by the various Amendments, which included the introduction of new Parts and Regulations, moving some of the Parts and Regulations to a different place within the Regulations, and re-titling some of the Parts and Regulations. The Regulations also introduced, and sometimes later omitted, different categories of traveller, such as “eligible category 2 arrival” and “eligible traveller”, and changed the requirements imposed on such travellers, in line with the Government’s response to the changing nature of the pandemic.

### **Self-isolation Regulations**

- **The Health Protection (Coronavirus, Restrictions) (Self-Isolation) (England) Regulations 2020**

83. The Regulations came into force on 28 September 2020, were amended on 16 occasions and were revoked on 24 February 2022.
84. The Regulations:
  - Imposed self-isolation requirements in relation to people who had tested positive for coronavirus and their contacts.
  - Prohibited an employer from allowing a worker who was required to self-isolate from attending any place for any purpose connected with their employment. It also required a self-isolating worker to inform their employer of the requirement on them to self-isolate.
85. Amendments made to these Regulations included: numerous changes to the period of self-isolation and how it is calculated; creation of new exceptions to the requirement to

self-isolate; relaxation of the requirement to self-isolate, by exempting certain contacts, such as children or vaccinated persons (this exemption was reversed in respect of the Omicron variant on 30 November 2021, requiring such contacts to self-isolate, but then re-applied in respect of the Omicron variant just 2 weeks later, on 14 December 2021).

86. Assessing whether a person had complied with the Regulations was not always straightforward. For example, calculating the dates on which a contact was required to self-isolate could be difficult, due to the definitions of the start and end date of the period of self-isolation.

### **Face coverings Regulations**

- **The Health Protection (Coronavirus, Wearing of Face Coverings on Public Transport) (England) Regulations 2020**

87. The Regulations came into force on 15 June 2020, were amended on 5 occasions and were revoked on 18 July 2021.

88. They required members of the public to wear face coverings whilst using public transport (such as buses, trains, aircraft, the London Underground, water taxis and trams), unless they had a reasonable excuse not to do so. A number of persons were exempt from the requirement, including children under the age of 11, employees of the relevant transport service, police and emergency responders. A non-exhaustive list of reasonable excuses was provided in the Regulations, such as any physical or mental illness or impairment, or disability that prevented a person from complying, the need to eat or drink, and to take medication.

- **The Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) Regulations 2020**

89. The Regulations came into force on 24 July 2020, were amended on 8 occasions and were revoked on 18 July 2021.

90. They required members of the public to wear face coverings whilst inside a relevant place, unless they had a reasonable excuse not to do so. A number of persons were exempt from the requirement and a non-exhaustive list of reasonable excuses was provided in the Regulations – these provisions were similar to those in the Regulations

on wearing face coverings on public transport. Schedule 1 contained a list of relevant places where face coverings must be worn. This included a shop (but not pubs, bars and restaurants), a transport hub, banks and post offices. Schedule 2 contained a list of places that were exempt from the definition of “shop”, where face coverings did not need to be worn, such as libraries, doctors’ surgeries, dentists’, theatres and cinema. The definition of a “relevant place” was amended on a number of occasions.

- **The Health Protection (Coronavirus, Wearing of Face Coverings) (England) Regulations 2021**

91. These Regulations came into force on 30 November 2021, were amended on 2 occasions and were revoked on 27 January 2022.
92. The Regulations required members of the public to wear face coverings whilst inside a relevant place specified in the Regulations, or whilst using public transport (such as buses, trains, the London Underground, trams, aircraft and water taxis), unless they had a reasonable excuse not to do so. They also required businesses in places where wearing a face covering is required to display notices giving information about that requirement, and prohibited persons carrying on business in specified locations from preventing anyone from wearing a face covering, except in limited circumstances. As with the 2020 Regulations, these Regulations contained a list of persons exempted from the requirements, and a list of non-exhaustive reasonable excuses.

### **Hospitality Regulations**

- **The Health Protection (Coronavirus, Restrictions) (Obligations of Hospitality Undertakings) (England) Regulations 2020**

93. These Regulations came into force on 18 September 2020, were amended on 10 occasions and were revoked on 18 July 2021.
94. They related to pubs, cafés, restaurants and other relevant businesses and required measures to be taken to restrict group bookings and admissions to 6 persons, subject to exemptions, to prevent mingling of persons in qualifying group, and to maintain an appropriate distance between tables occupied by different qualifying groups.

- **The Health Protection (Coronavirus, Restrictions) (Entry to Venues and Events) (England) Regulations 2021**

95. These Regulations mostly came into force on 15 December 2021, were amended on 2 occasions and were revoked on 27 April 2022.
96. They imposed obligations on certain events organisers and managers of certain venues to take reasonable measures to ensure that they did not admit any person (subject to exceptions such as persons under 18 years of age) to such events or venues, unless the person concerned had been fully vaccinated or had tested negative for coronavirus within the previous 48 hours, or met another listed criteria. A number of other related obligations were imposed on responsible persons. Local authorities were given powers to enforce these obligations.

#### **CPS actions in respect of legislative developments**

97. The CPS does not formulate Government policy, nor is it responsible for legislation. However, it is common practice, when new criminal offences are created, for the CPS to be consulted by the relevant Government department and to advise on how potential offences and legislation may work best in practice. Legislation will often be developed over many months or years, including its passage through Parliament, allowing the CPS adequate time to provide meaningful input.
98. The imminent threat posed by the pandemic necessitated emergency legislation at short notice. In these circumstances, it was not possible for the CPS to have the same level of input into the legislation before it was laid before Parliament. However, despite the speed with which the various Regulations were introduced, the CPS ensured that it worked as closely as possible with Government departments and the police to aid our understanding of the policy intent behind the Regulations and to raise any practical difficulties we encountered in enforcing them.
99. Prior to the first Health Protection Regulations coming into force in March 2020, the CPS viewed and commented on a number of draft Regulations, helping to clarify the text and identifying any perceived problems. Since this text served as the basis for a number of subsequent lockdown Regulations, CPS involvement ensured that we were able to readily understand most of the provisions, to assist the police by way of advice, and to enforce them through prosecutions.

100. The CPS continued to support the police and government departments by providing feedback on new draft Regulations and Amendments via a legal working group set up under the NPCC Operation Talla response (see below).
101. We provided ongoing feedback on any statutory provisions that we considered could be clarified or may have been difficult to enforce in practice. At times, such provisions were amended in subsequent Regulations.
102. The CPS also provided feedback on police operational guidance on enforcing the Regulations, which aimed to ensure a consistent interpretation and enforcement of the Regulations by the CPS and the police.

### **CPS Legal Guidance - England**

103. As a result of this close working relationship with the police and other Government departments, the CPS was able to produce and publish guidance on the Coronavirus Act and Regulations at the same time, or shortly after, any new legislation was brought into force. CPS prosecutors, the police and the public therefore had the benefit of this guidance from a very early stage, which was necessary given the frequency with which the Regulations were amended. However, the scale of this task should not be underestimated.
104. The legal guidance published by the CPS relates to those Coronavirus Regulations that applied in England and contained criminal offences. These can be found on the prosecution guidance page of the CPS website. [See schedule below]
105. At the start of the pandemic, we could not have foreseen the number of amendments that would be made to the Regulations. Our initial guidance provided detailed summaries of the new laws, to assist prosecutors to understand them. However, the complexity and frequency of amendments to the Regulations caused difficulties in drafting and revising the guidance in such a way as to make it clear and accessible to prosecutors, and to ensure it was up to date. A good example of this is the number of Amendment Regulations and resulting complexity of the International Travel Regulations: the 2020 Regulations were amended 57 times and the 2021 Regulations were amended 43 times. In January 2021 it was therefore decided to revise all of the Coronavirus Regulations guidance, to remove much of the detail, providing prosecutors with a clearer, high-level summary of the main provisions in the Regulations, incorporating only key amendments.

Prosecutors were reminded that they would need to refer to the timeline on the legislation website to determine which provisions were in force at the time of an alleged breach.

106. The speed with which legislation was developed and implemented meant there was little time to properly analyse the drafting of the legislation or to ensure our prosecutors were properly equipped to review cases charged under these new offences. This meant prosecutors were learning as they went along, and our guidance was constantly evolving to reflect our learning. Over time, the sheer volume of different iterations of the Regulations inevitably meant cases were charged under the wrong version of the Regulations (i.e. those which had been revoked and replaced by new Regulations) and we had to take steps to ensure additional oversight of these cases (see below).

### **The Coronavirus Regulations – Wales**

107. CPS Cymru–Wales produced guidance on the Welsh Coronavirus Regulations, accessible to all CPS Cymru–Wales prosecutors.
108. The Wales Covid Regulations were issued by the Wales Government using devolved powers, principally under the Public Health (Control of Disease) Act 1984. In total some 216 Statutory Instruments were passed, covering a wide variety of topics including education, health service, local authority meetings, access to footpaths, payments to farmers, police and crime commissioner elections & meetings, etc.
109. The Welsh government developed Covid legislation independently to that introduced by the government in England. The Wales Regulations initially introduced in March 2020 contained very similar restrictions to those introduced in England during the first ‘lockdown’ period, albeit the Welsh government decided not to ‘mirror’ the English guidance. However, very quickly the Welsh government took a different view of the nature and extent of regulations required. Consequently, over time there were often marked differences between the nature and extent of restrictions in force in Wales as compared to England.
110. Following 2 sets of precursor Regulations published on 18 and 21 March 2020, the first set of Principal Regulations (The Health Protection (Coronavirus, Restrictions) (Wales) Regulations 2020) came into effect on 26 March 2020. There were 7 sets of Amendment Regulations.

111. The first set of Principal Regulations, which reflected the first 'lockdown' on 26 March 2020, provided for individuals not to leave their place of residence without reasonable excuse, or for 2 or more people to participate in a gathering, subject to exceptions. The definition of 'reasonable excuse' was clarified over time, e.g. to allow for exercise.
112. Breach of the Regulations constituted a summary only offence for which an FPN could be issued (the amount of fine varied over time depending on the number of FPNs issued to an individual). Upon a conviction, the maximum sentence a court could impose was a financial penalty.
113. Over time, the Regulations moved from full lockdown to provide for local lockdowns, and tiered levels of restrictions, which could apply in different geographical areas. A 'firebreak' lockdown was imposed from 23 October 2020, and the restrictions were then progressively relaxed throughout 2021-2022.
114. The behaviour criminalised was generally in respect of requirements imposed under the Health Protection Regulations.
115. The CPS also produced legal guidance for prosecutors covering the Wales Regulations, though these were not published externally, rather they were shared within CPS Wales and with our charging team at CPS Direct. The legal guidance focused on the Wales Health Protection Regulations. However, legal guidance was also introduced to signpost requirements set out in the Wales International Travel Regulations.
116. The guidance documents contained a chronological list of the Regulations, their implementation dates, and hyperlinks to the Regulations. Where possible, short commentary was also included to signpost the main changes when a new set of Regulations was issued. This was updated as the Regulations were published.
117. Between 2020-2022, 40 versions of the Wales Health Protection Regulations legal guidance were published, and 20 versions of the Wales International Travel Regulations guidance to reflect the continued amendments and updates to the legislation.
118. The prosecutor guidance for Wales was published internally via the Cymru-Wales All-Staff MS Teams page, to enable all staff in Wales to access the guidance. From September 2020 it was also available on the National legal guidance page, but only

available internally. It was not published externally because it was not quality assured to publication standard.

### **Engagement with Welsh Government**

119. Early in the pandemic, the Welsh Government introduced a 'Warning and Information Group' chaired by the First Minister's communications manager and attended by a representative from the CPS. This primarily focussed on intelligence sharing from the Welsh Government and the police about upcoming changes and was an informal meeting.
120. The Criminal Justice Sub-Group for Covid 19 was set up on 25 March 2020, chaired by the Head of Justice Services for South Wales Police and reporting into the Wales Criminal Justice Board. It was a weekly pan-Wales meeting attended by Welsh police force leads, CPS, HMCTS, probation service and others. This was primarily an information sharing meeting where agencies provided updates as to the impact of the pandemic on their services in order to keep the CJS moving. For example, the police would provide updates on the number of fixed penalty notices issued so that the likely impact upon the courts could be considered.

### **Engagement on the development of the England Regulations**

121. Operation Talla was the name given to the national policing response to the Covid pandemic. It had a number of strands, one of which was criminal justice.
122. On around 24 March 2020 the Home Office shared an initial draft of the first Regulations with Op Talla. This was shared via emails with various parties as advanced notice and over time an informal network developed. This included representatives from the CPS DLS team, the Home Office Legislation Lead, the National Police Chiefs' Council ('NPCC') (which included representatives from the NPCC Charging portfolio, Operation Talla and the National Police Coordination Centre ('NPoCC')), the College of Policing, and the Director of Legal Services for the Metropolitan Police. The group would consider the draft Regulations with a view to developing consistent operational guidance for policing.
123. The Home Office shared proposed amendments to the Regulations with the Op Talla Network for early feedback. The process was conducted almost entirely by email, with

Home Office leads circulating the proposed drafts to the points of contact, including the CPS, and providing a short time for feedback (often within hours). The comments of the CPS were directed towards any amendments that might impact on prosecutions, or to clarify the policy intent behind certain provisions, but there were no substantive issues raised on the contents.

124. One of the early topics of discussion was around how the measures would be enforced and how to mitigate the risk of regional variation. The police proposed a four-step escalation principle; Engage, Explain, Encourage, Enforce (which became known as 'the 4 E's'). This approach ensured that enforcement of the powers in the Regulations were focused on punishing the most egregious breaches of the Regulations, and encouraged the police to make use of 'soft' powers (e.g. to ask people why they are out and direct them home) to create a heightened level of deterrence, as opposed to seeking immediate enforcement. This approach was reflected in the operational guidance and briefing to Chief Constables that was sent by the NPCC Charging Portfolio on 25 March
125. The CPS subsequently mirrored this in our published guidance on the Regulations, making clear that the issuing of criminal proceedings are likely to have been a matter of last resort. (eg see Charging Practice section in INQ000084003)
126. This process of sharing early drafts of Regulations for police and prosecutor feedback continued intermittently throughout the pandemic period.
127. Following the first draft of the Regulations, Operation Talla also set up a Police Powers Working Group to respond to questions posed by Forces. This group consisted of representatives from CPS, force solicitors, the Met DLS and the College of Policing. There were no formal terms of reference for the group, but it was engaged in responding to questions on police powers regarding the new legislation. As part of this group, the CPS provided feedback on drafts of operational guidance prepared by the College of Policing under the Coronavirus Act and the Regulations. This feedback was largely confined to checking the guidance was legally accurate.
128. Through this process the leads in each agency became known to each other and the sharing of information and provision of feedback generally occurred informally as and when issues arose, or new Regulations or Amendments were proposed.
129. Early on an issue emerged around differences between the advice issued by the government in the media and in the televised daily briefings as to the restrictions on

individuals, and what was actually prohibited by the Regulations. This was causing some confusion and was evident from the lists of questions which were being escalated to the Police Powers Working Group. For example, Regulation 6 of the Regulations (S.I. 2020/350) provided that 'no person may leave the place where they live without a reasonable excuse' and it was evident that there was particular confusion as to what may amount to a 'reasonable excuse' for these purposes.

130. On 3 April 2020, the group were provided with a document drafted by South Yorkshire Police and Humberside Police legal services which set out scenarios by way of guidance to frontline officers as to what may amount to a reasonable excuse. The CPS adapted that document and produced a quick reference guide table to provide internal guidance for CPS prosecutors which set out that which was government guidance and that which was capable of amounting to a breach. The College of Policing and NPCC Charging Portfolio took the view that this would also be a helpful guide for forces and included the table in their guidance document '*What constitutes a reasonable excuse to leave the place where you live*' that was published by the College of Policing and disseminated to forces on 10 April 2020 (**Ex GM/1 – INQ000101253**).
131. This process continued on an ad hoc basis as new Regulations were developed and new Guidance was produced by the NPCC, College of Policing and CPS.
132. The CPS also worked with the Ministry of Justice and the Police National Legal Database (PNLD) to create new National Standard Offence Wordings, for charging purposes, for new offences under the Coronavirus Regulations. These were placed on the PLND database for access by the police, CPS and HM Courts and Tribunal Service, to provide accurate and consistent wording of charges in a complex area of law.

### **Enforcement process**

133. Breaches of the Coronavirus Regulations could be dealt with either by way of a fixed penalty notice (FPN) or the prosecution of the offence. If an FPN was issued and not paid within the stipulated time period – 28 days – a prosecution may follow.
134. ACRO, the national body dealing with criminal records, oversaw the FPN collection process for Forces but they were not responsible for charging cases if the FPN was contested or not paid. This required ACRO to return information to Forces about unpaid FPNs so that they could then issue proceedings against the suspects. On around 22

April, the NPCC Charging portfolio became aware of the large volume of unpaid FPNs which would be returned back to Forces to institute proceedings. This led to discussions about how these cases would be managed. The volume of potential prosecutions that could follow in consequence presented a significant challenge for the CPS and for HMCTS.

135. The first individuals who failed to pay a Fixed Penalty Notice became liable for prosecution on 22 May 2020. Informal telephone meetings were set up by the NPCC Charging portfolio to discuss these and related issues. In due course, a proposal emerged around utilising the Single Justice Procedure to prosecute these cases.
136. The Single Justice Procedure (SJP) was introduced in April 2015 as a more efficient and streamlined method of handling the large volume of low-level offending processed by magistrates' courts. The procedure is outlined in section 16A of the Magistrates' Court Act 1980. It applies solely to summary only, non-imprisonable offences. A defendant must be 18 years or over when charged. SJP allows suspects to plead guilty by post and a single justice will determine the level of fine on the papers without a traditional court hearing. The CPS only become involved in the SJP if and when a defendant pleads not guilty, at which point the case will be passed to the CPS to prosecute.
137. On 7 May 2020, a joint request was made to the Attorney General (AG) by the NPCC Charging portfolio, the CPS and HMCTS to specify the Covid Regulations to allow for the SJP to be utilised (**Ex GM/2 – INQ000101254**). Offences dealt with through the SJP process would alleviate court capacity pressures and allow the CPS and HMCTS to focus on higher harm case work. If the SJP had not been able to be utilised for these offences they would have been listed in normal court lists, on which there was unprecedented demand, and would mean individuals needing to physically attend court buildings. This request was acceded to and the statutory instrument laid before Parliament on 2 June.
138. Initially, only offences under two sets of Coronavirus Regulations were specified: these were the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 and the Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020, which came into force on 26 March 2020 and were revoked on 4 July 2020 and 11 July 2020 respectively.

139. As new Regulations were developed, the earlier specification by the Attorney General did not cover those new offences. As a result, on 23 July 2020 the Attorney General was asked by the CPS, HMCTS and the NPCC to specify offences under the new Regulations (**Ex GM/3 - INQ000101255**). However, this was not acceded to at the time as the Attorney was not persuaded that the case for further Order was made out on the evidence provided. As such, the CPS would retain conduct of the cases not eligible for SJP and they would be listed in Court in the usual way.
140. In early January 2021, there was a meeting of Covid-O on Compliance and Enforcement (as above). The purpose was to understand the extent of the backlog in the court system and agree how cases related to breaches of Covid rules could be expedited. Shortly thereafter, the AG confirmed that all subsequent Covid Regulations would be specified so that they could utilise SJP.
141. Subsequently, on 8 February 2021, further offences were specified, under 25 sets of Regulations, so that the SJP could be used for all existing Coronavirus Regulations offences.
142. This meant that, in general, prosecution for breaches following unpaid FPNs were commenced using the SJP route. Where suspects declined to use the SJP or indicated a not-guilty plea, the case was then passed to the CPS to prosecute in the usual way.
143. Offences under the Coronavirus Act 2020 were not specified and were therefore subject to CPS prosecution (after police charge), regardless of plea.

### **Prosecutions Review**

144. When a case passes to the CPS to prosecute, a CPS prosecutor will review the evidence to determine whether there is sufficient evidence of an offence and whether the alleged offending merits a prosecution and, if so, whether the correct charge has been applied to the offending.
145. In early April 2020, following media reporting of cases which were incorrectly charged and convicted under the Act and/or Regulation we conducted an internal dip-sampling exercise on finalised cases. As a result, on 14 April 2020, we decided to launch a

wholesale review of all finalised cases<sup>1</sup> charged under the Coronavirus Act 2020 and the Health Protection (Coronavirus Restrictions) Regulations. This Review was conducted by our Compliance & Assurance Team (CAT) in the Operations Directorate. It aimed to address the public, ministerial and media concerns regarding the risk of miscarriages of justice occurring due to the confusion caused by the speed of implementation of the Act and the Regulations.

146. On a weekly basis from April 2020 until March 2022, CAT lawyers were provided with a list of all finalised cases charged under the Regulations or the Act. These cases were extracted from the CPS Management Information System (MIS). The lawyers manually reviewed every case to ensure the correct offences had been charged and prosecuted.
147. Where an error was identified in a case where the defendant had pleaded guilty or was found guilty, the case was referred back to the local CPS Area to take remedial action. This was to ensure the case was re-opened and re-listed in court so that the error can be corrected (either by way of amending the charge or withdrawing the charge entirely).
148. The CPS published the results of these monthly reviews on its website every quarter and shared the information with the NPCC Charging lead.
149. Errors included:
  - Offending in England charged under Welsh Regulations (or vice versa)
  - Evidential issues, such as the charging of homeless people being outside without a reasonable excuse
  - Offences charged under s51/sch21 of the Coronavirus Act where there was no evidence that the defendant was potentially infectious (every case charged under the Act was charged in error)
  - Offences prosecuted under the wrong iteration of the Regulations (e.g. using repealed Regulations).
150. When the CPS began its monthly review of charges, a strong onus was placed on the police to put supervising officers in charge of decision-making at police stations and elsewhere, as any errors in the charging of Coronavirus offences under the Regulations or the Act are made initially at this point in the prosecution process.

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<sup>1</sup> Finalised cases are cases where a prosecution has either been stopped or concluded with the defendant being found guilty, or where a guilty plea is entered and accepted.

- 151.
152. To mitigate the risk of incorrectly charged cases reaching court, the CPS put in place an internal safeguard: a 'triage check' which was carried out by a supervising lawyer (known as the Covid SPOC) on all charged cases before the first court appearance. This helped to ensure that any errors were identified immediately and amended. Using a supervising lawyer for this role allowed them to build up an understanding of the Regulations and common errors so that they can be easily identified and rectified.
153. Our data<sup>2</sup> indicates that the CPS prosecuted 2607 cases under the various Regulations and 311 cases under the Act. It should be noted that this does not include cases which were finalised using the SJP.
154. Of the 311 cases under the Act, every case was charged incorrectly. This was usually because the wrong legislation had been used; in many cases the conduct would have been an offence under one of the Regulations. Most of these errors were identified at Court and the offence was withdrawn, however, 53 cases were convicted in error and the case had to be returned back to the CPS Area to reopen and withdraw or amend.
155. In respect of the Regulations, 532 of 2607 cases were charged incorrectly. 425 were identified at Court and were withdrawn, 76 were identified upon review and had to be returned to Area. 12 resulted in not guilty pleas and 19 were miscellaneous, for example, the case was administratively finalised or a warrant was issued.
156. Our checks indicate the majority of the covid offences were charged by the Police, as per the Directors Guidance on Charging (see above).

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<sup>2</sup> CPS management information is derived from the CPS case management system, and as with any large-scale recording system, data are subject to possible errors in entry and processing. The figures were provisional and subject to change as more information is recorded and quality assured by the CPS. This means that cumulative figures may not always match the sum of historic monthly published figures.

Our data covers the number of offences rather than individual defendants. Official criminal justice outcome statistics are kept by the Ministry of Justice.

### England & Wales combined total

Number of cases finalised (April 2020 to March 2022)	Number of cases charged by		Number of cases incorrectly charged by
Health Protection (Coronavirus Restrictions) Regulations	Police	2,514	520
	CPS	93	12
	<b>Total</b>	<b>2,607</b>	<b>532</b>
Coronavirus Act 2020	Police	298	298
	CPS	13	13
	<b>Total</b>	<b>311</b>	<b>311</b>

### All other CPS Areas

Number of cases finalised (April 2020 to March 2022)	Number of cases charged by		Number of cases incorrectly charged by
Health Protection (Coronavirus Restrictions) Regulations	Police	2,283	469
	CPS	89	12
	<b>Total</b>	<b>2,372</b>	<b>481</b>
Coronavirus Act 2020	Police	272	272
	CPS	12	12
	<b>Total</b>	<b>284</b>	<b>284</b>

### CPS Cymru Wales

Number of cases finalised (April 2020 to March 2022)	Number of cases charged by		Number of cases incorrectly charged by
Health Protection (Coronavirus Restrictions) Regulations	Police	231	51
	CPS	4	0
	<b>Total</b>	<b>235</b>	<b>51</b>
Coronavirus Act 2020	Police	26	26
	CPS	1	1
	<b>Total</b>	<b>27</b>	<b>27</b>

157. Inevitably this was a resource intensive review process but given the volume of errors we were identifying – reflective of the complex legal landscape which emerged due to the volume of legislative amendments which occurred during the pandemic – it was a necessary action to maintain confidence in the criminal justice system.

## **Finance**

158. CPS expenditure is financed from centrally agreed multi-year budgets, administered by the Treasury, which are set through the Spending Review process. Each year the CPS seeks legal authority to consume resources and spend cash for the financial year ahead through the Estimates process. The CPS has discretion as to how it distributes its budget allocations, subject to any restrictions that Treasury may place upon it. The CPS is expected to operate within its funding allocation for each financial year over a spending review period.
159. The CPS costing methodology is based on each stage of the prosecution process (e.g. charging, case preparation, trial) and court type (e.g. magistrates/Crown Court), not the specific offences charged. The principal driver of the cost estimation process is the amount of time it takes our staff to deliver at each stage of our operating process. All cases (regardless of the offence category) follow the same basic processes through the court system.
160. The CPS is a demand-led organisation and during the pandemic the type of offences being committed changed, given the restrictions which were being imposed. Some crime types increased whilst others reduced. The CPS' financial model meant we did not have to bid for additional resource to manage the changing nature of crime. It is therefore not possible to identify the cost of prosecuting during the pandemic.

## **Statement of Truth**

I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief of its truth.

**Signed:**

**PD**

Dated: 12.05.23

**Annex: Schedule of legal guidance**

English Legal Guidance	
OPS-LG001 Coronavirus Self-Isolation Regulations - version 1 29.09.2020.pdf	INQ0000 84003
OPS-LG002 Coronavirus Self-Isolation Regulations - version 2 17.02.2021.pdf	INQ0000 84004
OPS-LG003 Administrative Update to 12 Chapters of Covid Legal Guidance on 22 January 2021.pdf	INQ0000 84005
OPS-LG004 Coronavirus Self-Isolation Regulations - version 3 05.02.2021.pdf	INQ0000 84006
OPS-LG005 Coronavirus Self-Isolation Regulations - version 4 30.03.2021.pdf	INQ0000 84007
OPS-LG006 Coronavirus Self-Isolation Regulations - version 5 07.09.2021.pdf	INQ0000 84008
OPS-LG007 Coronavirus Self-Isolation Regulations - version 6 30.11.2021.pdf	INQ0000 84009
OPS-LG008 Coronavirus Self-Isolation Regulations - version 7 22.06.2022.pdf	INQ0000 84010
OPS-LG009 Coronavirus Self-Isolation Regulations - version 8 25.08.2022.pdf	INQ0000 84011
OPS-LG010 Coronavirus Act 2020 - version 1 26.03.2020.pdf	INQ0000 84012
OPS-LG011 Coronavirus Act 2020 - version 2 08.04.2021.pdf	INQ0000 84013
OPS-LG012 Coronavirus Act 2020 - version 3 13.10.2021.pdf	INQ0000 84014
OPS-LG013 Coronavirus Act 2020 - version 4 18.07.2022.pdf	INQ0000 84015
OPS-LG014 Local Coronavirus Regulations Tier 1 - version 1 16.10.2020.pdf	INQ0000 84016
OPS-LG015 Local Coronavirus Regulations Tier 1 - version 2 06.11.2020.pdf	INQ0000 84017
OPS-LG016 Administrative Update to 11 Chapters of Covid Legal Guidance on 25 November 2020.pdf	INQ0000 84018
OPS-LG017 Local Coronavirus Regulations Tier 1 - version 3 22.06.2022.pdf	INQ0000 84019
OPS-LG018 Local Coronavirus Regulations Tier 2 - version 1 16.10.2020.pdf	INQ0000 84020
OPS-LG019 Local Coronavirus Regulations Tier 2 - version 2 06.11.2020.pdf	INQ0000 84021
OPS-LG020 Local Coronavirus Regulations Tier 2 - version 3 22.06.2022.pdf	INQ0000 84022
OPS-LG021 Local Coronavirus Regulations Tier 3 - version 1 16.10.2020.pdf	INQ0000 84023
OPS-LG022 Local Coronavirus Regulations Tier 3 - version 2 06.11.2020.pdf	INQ0000 84024
OPS-LG023 Local Coronavirus Regulations Tier 3 - version 3 22.06.2022.pdf	INQ0000 84025
OPS-LG024 Health Protection (Coronavirus, Restrictions) (Steps) (England) Regulations 2021 - version 1 29.03.2021.pdf	INQ0000 84026
OPS-LG025 Health Protection (Coronavirus, Restrictions) (Steps) (England) Regulations 2021 - version 2 12.04.2021.pdf	INQ0000 84027
OPS-LG026 Health Protection (Coronavirus, Restrictions) (Steps) (England) Regulations 2021 - version 3 17.05.2021.pdf	INQ0000 84028
OPS-LG027 Health Protection (Coronavirus, Restrictions) (Steps) (England) Regulations 2021 - version 4 18.07.2021.pdf	INQ0000 84029
OPS-LG028 Health Protection (Coronavirus, Restrictions) (Steps) (England) Regulations 2021 - version 5 22.06.2022.pdf	INQ0000 84030

OPS-LG029 Health Protection (Coronavirus, Restrictions) (No.2) (England) Regulations 2020 version 1 03.07.2020.pdf	INQ0000 84031
OPS-LG030 Health Protection (Coronavirus, Restrictions) (No.2) (England) Regulations 2020 version 2 08.07.2020.pdf	INQ0000 84032
OPS-LG031 Health Protection (Coronavirus, Restrictions) (No.2) (England) Regulations 2020 version 3 10.07.2020.pdf	INQ0000 84033
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OPS-LG046 Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 effective from 26 March 2020 and 3 July 2020 v5	INQ0000 83958
OPS-LG047 Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 effective from 26 March 2020 and 3 July 2020 v6	INQ0000 83963
OPS-LG048 Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 effective from 26 March 2020 and 3 July 2020 v7	INQ0000 83981
OPS-LG049 National restrictions on movement, gatherings and businesses (No.4 Regs), effective from 5 November 2020 v1	INQ0000 83999
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OPS-LG080 Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) Regulations 2020 v3	INQ0000 83987
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OPS-LG085 Health Protection (Coronavirus, Wearing of Face Coverings on Public Transport) (England) Regulations 2020 v1	INQ0000 83982
OPS-LG086 Health Protection (Coronavirus, Wearing of Face Coverings on Public Transport) (England) Regulations 2020 v2	INQ0000 83969
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OPS-LG110 Wales Cymru Coronavirus Offences Legislation.pdf	INQ0000 84086
OPS-LG111 [Wales] International Travel Regulations - version 1 18.09.2020.docx	INQ0000 84087
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