

# SCRUTINY OF POLICE POWERS PANEL

Covid-19 Regulation related cases. April 2020 Remote Panel reviews

This Review Report covers Panel member feedback on Covid-19 Regulation related cases, some resulting in Penalty Notices being served. Cases are from 2<sup>nd</sup> to 26<sup>th</sup> April 2020.

The guidance to Police Officers is to initially Engage, Explain and Encourage – the 3 'Es'. Only after this communication would the last resort be to serve a Fixed Penalty Notice (FPN) for a Covid-19 Regulation breach, such as socialising, travelling and being outside.

Note: The 7 questions within each Panel member feedback form are omitted in this Report if they are all answered positively.

## **1. Covid-19 Act related cases (18 cases reviewed)**

Covid-19 Act breach cases, some resulting in Penalty Notices served.

### **Case 1: 2 April 2020**

The necessity and proportionality of the enforcement was not clear to one Panel member because the body worn video (BWV) footage is an 'after the fact' delivery of the Penalty Notice. However, the member considered that the Officer believed there was a prior contravention of the Covid-19 Regulations. Questions 2 and 6 refer, respectively, as below.

A second Panel member commented that there was no engagement, explanation or encouragement (Question 1 below) because the Officers are delivery the Penalty Notice from a previous engagement and breach. Therefore, the Officers instructions were reasonable under the circumstances (Question 3 below).

The Covid-19 case review feedback form's 7 questions are answered as follows:

1. Did the officer Engage, Explain, Encourage?

Answer: Yes (1 member), **No** (1 member) as serving FPN from previous breach.

2. Was enforcement necessary and proportionate to ensure compliance?

**Answer: Yes (1), Unsure (1). This was `after the fact` delivery of a FPN.**

3. Were the instructions and/or directions reasonable? Answer: Yes (1), N/A (1).

4. If force was used to remove a person to where they live, was it reasonable force? N/A (2).

5. If an individual contravenes a request, direction, instruction or prohibition notice, did he/she have a reasonable excuse? Answer: No (1), N/A (1).

6. If a Fixed Penalty Notice (FPN) is issued, did the officer reasonably believe a person committed an offence under the regulations? Answer: Yes (2).

7. Was the police behaviour free from demonstrable discriminatory behaviour? Answer: Yes (2).

*Constabulary response: Panel comments are noted with thanks.*

### **Case 2: 7 April 2020**

Good use of BWV with the narrative.

*Constabulary response: Panel comments are noted with thanks.*

### **Case 3: 8 April 2020**

A good level of communication. The Police dealt with the actual breach well.

*Constabulary response: Positive comments noted with thanks.*

#### Case 4: 9 April 2020

A good level of communication. The Police dealt with the actual breach well.

*Constabulary response: Positive comments noted with thanks.*

#### Case 5: 9 April 2020 - Taunton

A good level of communication. The Police dealt with the actual breach well and is incredibly patient.

*Constabulary response: Positive comments noted with thanks.*

#### Case 6: 9 April 2020 – Shepton Mallet

3 girls aged 9 and 16 year old twins playing in the park. The Police Officers are suspicious of them not living together and ask for their name, address and dates of birth at the outset.

**Concerns:** There is no engagement, explanation or encouragement regarding the Covid-19 situation. It is a pleasant conversation but the Officers do not take the opportunity to explain why social distancing is so important. The Officers also say they will retain their details (the Panel member comments that this is intimidating) and say the girls can exercise but have to keep moving and must not sit down. The Panel member questions this statement, bearing in mind these are children.

A second Panel member comments are that there is a good level of communication and the Police deal with the actual breach well.

**Questions:** Why do the Officers ask the children for their personal information?  
Is it correct that people should keep moving whilst exercising, as advised to these children?

The member Covid-19 case feedback form's 7 questions are answered as follows:

- 1 Did the officer Engage, Explain, Encourage? Answer: Yes (1), **No (1)**.
- 2 Was enforcement necessary and proportionate to ensure compliance? **Questionable (1)**, N/A (1).
- 3 Were the instructions and/or directions reasonable? Yes (1), **Questionable (1)**.
- 4 If force was used to remove a person to where they live, was it reasonable force? N/A (2)
- 5 If an individual contravenes a request, direction, instruction or prohibition notice, did he/she have a reasonable excuse? Answer: **Yes (1)**, N/A (1).
- 6 If a Fixed Penalty Notice (FPN) is issued, did the officer reasonably believe a person committed an offence under the regulations? N/A (2).
- 7 Was the police behaviour free from demonstrable discriminatory behaviour? Yes (2).

*Constabulary response: I note the differing feedback from panel members. Having reviewed this incident, the officers have perceived the females to have run away on seeing them to try and prevent the interaction. This is the reason for the more forward approach. The officers have requested their information to identify whether they are from the same household or whether they are breaching social distancing regulations. One female was initially unable to provide their address raising the officer's suspicion. In relation to exercise, this interaction took place just prior to the NPCC guidance around exercise. This confirms now that "exercise must involve some movement, but it is acceptable for a person to stop for a break in exercise. However, a very short period of 'exercise' to excuse a long period of inactivity may mean that the person is not engaged in 'exercise' but in fact something else." It is therefore a judgement call for the officer dealing taking into account this guidance.*

#### Case 7: 11 April 2020

One Panel member commented that the male member of the public is not being sensible or reasonable but the Police Officers do not engage, explain or encourage (the 3 'Es') the man regarding the Covid situation. Instead the Officers go straight into asking for personal details and do a radio check. The man is drinking with a mate in the sun and not exercising but he is affronted by the Officers'

approach. Eventually the man agrees to go home without a Penalty Notice being issued and then in a fit of petulance asks for a Fixed Penalty Notice for which the Officers oblige.

**Concern:** The Panel member feels a 3 'Es' approach might have led to a better response from the man.

A second Panel member's comments are that there is a good level of communication and the Police deal with the actual breach well. The Officers are patient and there is respectful handling of the situation.

The member Covid-19 case feedback form's 7 questions are answered as follows:

- 1 Did the officer Engage, Explain, Encourage? Answer: Yes (1), **No (1)**.
- 2 Was enforcement necessary and proportionate to ensure compliance? Yes (2).
- 3 Were the instructions and/or directions reasonable? Yes (1), **Questionable (1)**.
- 4 If force was used to remove a person to where they live, was it reasonable force? Yes (1), N/A (1)
- 5 If an individual contravenes a request, direction, instruction or prohibition notice, did he/she have a reasonable excuse? Answer: N/A (2).
- 6 If a Fixed Penalty Notice (FPN) is issued, did the officer reasonably believe a person committed an offence under the regulations? Yes (1), **Questionable (1)**.
- 7 Was the police behaviour free from demonstrable discriminatory behaviour? Yes (2).

*Constabulary response: I note the panel comments and slightly differing views. Having reviewed the footage the officers have looked to engage the male and encourage him to return home, however, despite numerous attempts to do so and him initially agreeing to do so, he has refused. I agree with the second panel member that the officers have remained calm showing a good level of communication and it has been necessary for them in the end to issue a ticket.*

#### **Case 8: 12 April 2020**

A good level of communication. The Police dealt with the actual breach well. However, there is limited video as it was switched on late.

*Constabulary response: Panel comments are noted with thanks.*

#### **Case 9: 13 April 2020**

A good level of communication. The Police dealt with the reported breach well.

*Constabulary response: Panel comments are noted with thanks.*

#### **Case 10: 14 April 2020**

The video footage is only 1 minute and 25 seconds, during which a Fixed Penalty Notice (FPN) is issued. The Covid-19 Regulation breach appears to be that a visitor is in the man's house. However more information is needed as on the face of it the Officer cannot engage, explain or encourage (the 3 Es) in such a short time.

A second Panel member commented that the Officer believed there was a contravention of the Covid-19 Regulations and so served the penalty notice. See answer (yes) to Question 6 below. Two Panel members comment that the man and the Police Officer clearly have a history.

A third Panel member commented that this incident is somewhat rushed and could have been handled better.

**Question:** The suspect and Officer appear to have a history. Where there is a likelihood of doorstep confrontation, is it wise to send someone known by the suspect?

The member Covid-19 case feedback form's 7 questions are answered as follows:

- 1 Did the officer Engage, Explain, Encourage?:  
Yes (1), **No (1), Don't know (1) not seen on the short video.**

2 Was enforcement necessary and proportionate to ensure compliance?

Yes (1), **Don't know (1), Possibly (1).**

3 Were the instructions and/or directions reasonable?

**Questionable (1), Don't know (1), No (1), not handled well.**

4 If force was used to remove a person to where they live, was it reasonable force? N/A (3),

5 If an individual contravenes a request, direction, instruction or prohibition notice, did he/she have a reasonable excuse? Answer: No (1), **Don't know (1), N/A (1).**

6 If a Fixed Penalty Notice (FPN) is issued, did the officer reasonably believe a person committed an offence under the regulations? Yes (2), **Don't know (1).**

7 Was the police behaviour free from demonstrable discriminatory behaviour? Yes (2), **Don't know (1).**

*Constabulary response: I note the panel comments in relation to this case. Officers were required to attend this location on a number of occasions due to reported breaches – prior efforts have been made to engage, explain and encourage but have been required to re attend due to non-compliance. This is the reason for the short interaction on this occasion.*

**20200419-0407 Case 11: 19 April 2020**

Well handled, empathetic and fair.

*Constabulary response: Panel comments are noted with thanks.*

**20200418-0769 Case 12: 18 April 2020**

Points well made. The Officer has a good attitude, is patient and spends a long time explaining to the people. Social distance is also well kept by the Officer.

*Constabulary response: Panel comments are noted with thanks.*

**Case 13: 18 April 2020 at 10.18p.m.**

No footage of the initial visit or if same visit of initial discussion. A very brief description at the end of footage.

*Constabulary response: Panel comments are noted with thanks.*

**Case 14: 18 April 2020 at 10.18p.m.**

*Police Officers have clearly seen this female several times before and she is known to them.*

*Constabulary response: Panel comments are noted with thanks.*

**Case 15: 21 April 2020 at 6.22p.m. Duke Street.**

The Police Officers are very calm, explaining why the people are being asked to leave the premises, and it is good that only one Officer is leading the situation. The Officer obviously knows the household well including the female and the other people involved, which helped. The conversations are calm and respectful throughout the incident. The Officers are very patient whilst speaking with the female.

*Constabulary response: Panel comments are noted with thanks.*

**Case 16: 23 April 2020 - Bristol - 4.26p.m.**

The officer is very calm and even-toned, despite a lack of communication from the males involved.

**Operational policing concern:** The officer asks for extra units on 3 occasions but none arrive, despite him saying it was a large group of people and he is alone.

*Constabulary response: Panel comments are noted with thanks. The issue around the lack of support was raised at the time by the officer in question and debriefed.*

**Case 17: 23 April 2020 at 5.49p.m.**

This is the second offence. The Officer warned the male the first time, there was a stop/search involved as well, because the Officer mentions it in the footage.

*Constabulary response: Panel comments are noted with thanks.*

**Case 18: 26 April 2020 at 1.16p.m.**

The Officer has seen the same male earlier and warns him to go home as this is the second sighting of him.

*Constabulary response:*

*Thank you to the panel for taking the time to review all cases contained within the report. The comments and feedback from all incidents reviewed are noted and have been collated with the internal scrutiny work completed also to identify best practice and learning. The good practice identified by the panel has been fed back to the officers involved.*