



THE UNIVERSITY *of* EDINBURGH
Edinburgh Law School

Policing the Pandemic in England and Wales: Police use of Fixed Penalty Notices from 27 March 2020 to 31 May 2021

Susan McVie, Kath Murray, Victoria Gorton and Ben Matthews



- The proportion of all FPN recipients, in both England and Wales, who were aged 18 to 24 rose from around a third in period one, to around a half in periods two and three.

Ethnicity

- The majority of individuals issued with FPNs for breaching the Regulations in England and Wales came from a white background (including white minorities), with one in five being issued to individuals from an ethnic minority background (excluding white minorities).
- Over a quarter (27.0%) of FPN recipients in England were from an ethnic minority background, which was around double their population share (13.7%). The equivalent figure for Wales was one in ten (10.7%), which was also double their population share (5.2%).¹
- In England, the rate of FPNs per 10,000 people from an ethnic minority background was 46.1, compared to 19.9 for white individuals, reflecting an ethnic disparity rate of 2.3. The equivalent figures for Wales were 119.0 and 42.7, respectively, reflecting a higher ethnic disparity rate of 2.8.
- The ethnic disparity rate in England was highest for people from a black ethnic background, who were 3.2 times more likely to be issued with an FPN than those from a white background. The equivalent figure for Wales was 2.9.
- The ethnic disparity rate in Wales was highest for people from mixed or Asian ethnic backgrounds who were 3.5 and 3.1 times, respectively, more likely to be issued with an FPN than those from a white background. The equivalent figures for England were 2.8 and 2.1.
- Ethnic disparities in the use of FPNs were highest in Wales during period one but declined over time; while ethnic disparities in England increased between periods one and three.
- Males had a higher ethnic disparity rate than females across all three time periods in England and Wales.
- Overall, the ethnic disparity rate was highest among FPN recipients aged 45 years or over, at 2.8 in England and 3.5 in Wales; although, differences between age groups were more notable during periods two and three than in period one.

¹ Particular caution should be exercised when interpreting rates in respect of Wales, where the total number of FPNs issued to people from an ethnic minority background over the 14-month period (n=1,255) was very small in absolute terms.

Cancellation of FPNs

- Review processes were in place which led to 6,423 FPNs issued in England and Wales being either cancelled by the issuing police force or withdrawn by ACRO. This represented 5.2% of all fines issued.
- A higher proportion of FPNs were cancelled in England (5.5%) than in Wales (3.0%), but there was considerable variation across PFAs.
- In England, the percentage of FPNs cancelled was lowest in Warwickshire (1.1%) and highest in the West Midlands (23.5%). In Wales, cancellation was less common than English PFAs on average, ranging from 1.5% in Gwent, to 5.2% in Dyfed-Powys.
- A fifth of all FPNs issued to individuals who were not resident within the issuing PFA were cancelled, compared to only 1.4% of FPNs issued to residents.
- Cancellation of FPNs reduced over time, suggesting that police officer practice was increasingly in line with the legislation and policing policy as time went on. The proportion of cancelled FPNs remained consistently higher in England than Wales, however.
- FPN recipients aged 18-24 were least likely to have their tickets cancelled (4.6%), while those aged between 35 and 44 years (5.5%) were most likely. Prevalence of cancellation did not vary by sex.
- FPNs issued to people from an ethnic minority background were more likely to be cancelled (5.9%) than those for white recipients (4.8%), with people from a black ethnic background being most likely to have a fine cancelled (7.3%).
- FPN recipients in England who were living in the most deprived areas were most likely to have their FPN cancelled, while those living in least deprived deciles were least likely. Area deprivation differences were not significant for FPN recipients in Wales.
- Repeat FPN recipients were significantly more likely to have an FPN cancelled than those who received only one.

Payment of FPNs

- More than half of FPNs were paid within the statutory payment period, but payment levels were consistently higher in Wales than England.
- Payment varied from only 30.5% of all FPNs issued in Cleveland to 70.6% of FPNs issued in Warwickshire; however, there was no clear relationship between payment rate and rate of issue within PFAs.

7. Outcomes of FPNs

7.1. Possible outcomes

The data provided by ACRO included details of three possible outcomes for FPNs issued under the Coronavirus Regulations: payment; cancellation or withdrawal; and 'non-compliant'. Fines marked as 'non-compliant' were not paid within the statutory payment period, but were also not cancelled or withdrawn, and so would have been referred to the Courts for consideration. There is no further information on the longer-term outcome of these fines (e.g. in terms of whether they were ever paid, resulted in a court appearance, or were later rescinded), and as such are not included in the analysis. Instead, this part of the report provides further analysis of cancelled or withdrawn fines, and paid fines.

7.2. Cancelled or withdrawn FPNs

The Coronavirus Regulations did not provide a process for reviewing or appealing FPNs at the request of the recipient. As the Joint Committee on Human Rights noted, *'for most people, the main way of arguing that an FPN was wrongly issued is to be prosecuted in court for that offence and to mount a defence during that criminal prosecution'* (2021: para. 76).⁴⁴ Nevertheless, review processes were in place which led to some fines being rejected by ACRO or cancelled by individual police forces. In the majority of cases, the cancellation or withdrawal of fines was due to: lack of, or incorrect, information provided on the actual ticket; lack of sufficient evidence that an offence had been committed; or failure of officers to follow the 4Es.⁴⁵

Analysis was conducted to determine whether cancelled or withdrawn FPNs (hereafter referred to as 'cancelled') were different from other FPNs based on where, when, why, and to whom they were issued. Information on cancelled FPNs is not routinely published, so it is not possible to say whether the results presented in this report are different to what might normally be expected. It is plausible that rapid and frequent changes to the Regulations and restrictions during the pandemic may have resulted in greater potential for errors of judgement and good faith mistakes while implementing the new policing powers. However, more information on the internal

⁴⁴ House of Commons and House of Lords Joint Committee on Human Rights (2021) [The Government response to covid-19: fixed penalty notices](#).

⁴⁵ Based on police force responses to a formal request for information by the NPCC.

The higher prevalence of cancellation amongst FPN recipients from ethnic minority backgrounds was not simply because fines were issued at a higher overall rate for these groups. These findings indicate that there was a genuinely higher likelihood that ethnic minority FPN recipients, in particular those from a black background, would have a fine cancelled, regardless of how many were issued.

This is the first time that data on the cancellation of fines in England and Wales has been published, so there are no baseline data to say whether the rates are higher or lower than expected. In addition, it is not possible from these data to explain the differences in the rates of cancellation between groups or over time. As noted earlier, detailed information on the internal review processes introduced by police forces is also limited.

Area deprivation

Figure 18 shows the percentage of FPN recipients in England and Wales with at least one cancelled FPN by deprivation decile. FPN recipients in England who were living in one of the 10% most deprived LSOAs were most likely to have an FPN cancelled (6.2%), while those living in the 10% least deprived LSOAs were least likely (4.2%). These differences between recipients living in different deprivation deciles were statistically significant. However, amongst those issued with FPNs in Wales, there was no distinct pattern or significant difference in the likelihood of having an FPN cancelled according to deprivation decile.

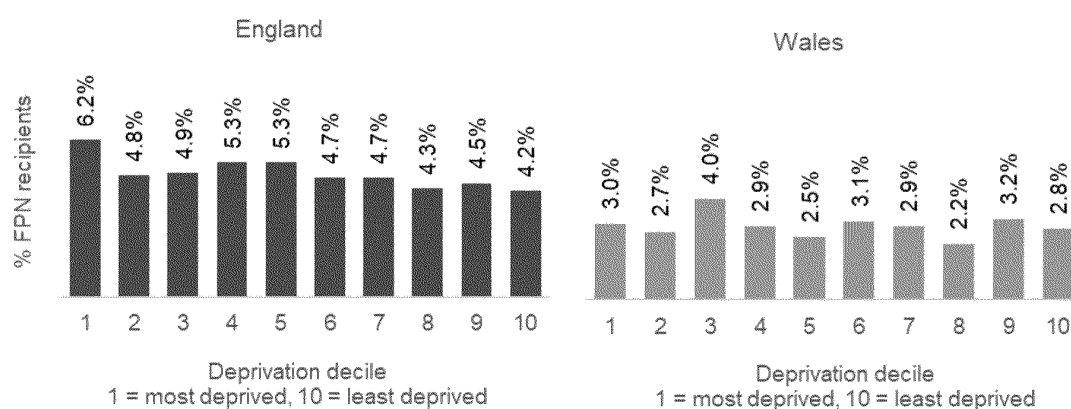


Figure 18. Percentage of FPN recipients with at least one cancelled FPN by deprivation decile, 27 March 2020 to 31 May 2021, England and Wales

were highest overall amongst those in the oldest age group (45+). The disparity in enforcement rates between white and minority ethnic groups declined over time in Wales, but increased in England. Therefore, whatever factors were underpinning ethnic disparities, they may not have been the same in England and Wales.

There was ethnic disparity in the use of enforcement across all PFAs in England and Wales. This ranged from 1.4 in Warwickshire to 8.4 in Cumbria. However, after excluding those who were not resident within the issuing PFA (i.e., those likely to have been involved in illegal travel across local authority borders), the rate of ethnic disparity reduced substantially across many PFAs, especially in Wales. For example, the ethnic disparity rate in Cumbria reduced from 8.4 to 2.3; while in North Wales it reduced from 4.1 to 1.1. This reduction in ethnic disparity rates suggests that, within some PFAs, enforcement amongst those who were not normally resident in that area may have disproportionately involved people from ethnic minority backgrounds.

Ethnic disproportionality within England and Wales is not uncommon, especially in relation to ‘street-based’ policing practices such as stop and search;⁵¹ therefore, given the significant focus on public policing during the pandemic, it might reasonably have been expected that some ethnic disproportionality would have occurred. Research with police officers has suggested that those from minority ethnic backgrounds were not necessarily more likely to break the rules, but may have been “more likely to do so in circumstances that make them visible to the police and thus available for intervention”.⁵² It is possible that this increase in visibility was greater within some police force areas than others, especially during periods of restriction when far fewer people than usual were travelling. However, it is also possible that the Coronavirus Regulations impacted differentially on the behaviours or travel patterns of different groups in the population for other reasons. Uncertainty about different patterns of compliance within the population makes it difficult to draw any conclusions about ethnic disproportionality in policing practice in this report.

Like Scotland, the data showed that FPN recipients in England and Wales were disproportionately likely to be living in areas of high deprivation. In England, fines were 4.8 times more likely to be issued to people living in the 10% most deprived communities of either England or Wales than those in the 10% least deprived areas, while the equivalent figure for Wales was 3.0. The disparity in likelihood of enforcement between those in the most and least deprived areas declined over the course of the pandemic, which suggests some widening of the social spectrum amongst those who the police were encountering in breach of the Regulations.

⁵¹ See UK Government Report on Stop and Search published 27 May 2022. <https://www.ethnicity-facts-figures.service.gov.uk/crime-justice-and-the-law/policing/stop-and-search/latest#by-ethnicity>

⁵² See Turner, Rowe and Redman (2022: v) Every ticket tells a story. <https://www.n8prp.org.uk/wp-content/uploads/sites/315/2022/08/Every-Ticket-Tells-a-Story-Full-Report-10.05.2022.pdf>