

Witness Name: Sean O'Callaghan OBE

Statement No. 1

Exhibits: SOC/1 - 17

Dated: 21<sup>st</sup> March 2025

## **UK COVID-19 INQUIRY**

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### **CORPORATE WITNESS STATEMENT ON BEHALF OF THE BRITISH TRANSPORT POLICE**

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I, Assistant Chief Constable Sean O'Callaghan OBE, will say as follows: -

1. I am employed by British Transport Police (BTP). I am responsible for the Specialist Capabilities portfolio. I am accredited by the College of Policing with occupational and operational competence in the following disciplines: Strategic Firearms Commander; Multi Agency Gold Incident Commander (MAGIC); Public Order Public Safety Gold (Strategic) Commander and Chemical Biological Radiological or Nuclear Strategic Commander.

#### **Introduction**

2. This is a corporate witness statement on behalf of BTP. This document has been drafted in response to the Rule 9 request for Module 7 dated the 19<sup>th</sup> July 2024, in order to assist the Chair of the UK Covid-19 Inquiry.
3. The information in this statement is (a) drawn from my own knowledge and experience and (b) taken from material provided by staff within BTP, as well as documentary records.

4. The force firstly wishes to acknowledge those people who lost their lives to the Covid-19 pandemic, including serving members of BTP. Our thoughts remain with the families, friends and colleagues of those who are no longer here.
5. I was appointed as Assistant Chief Constable (Specialist Capabilities) for BTP in June 2018 and continue to hold that post. I joined Essex Police in 1993 and served for 25 years in various roles across that force. In March 2020 I was appointed by the then Chief Constable of BTP to the role of Strategic Commander (Gold) for the BTP response to Covid-19. I have retained oversight of all matters relating to the pandemic to date.
6. This is the second occasion I have acted as Corporate Witness for BTP. I also undertook the position for the force in the Manchester Arena Inquiry. In that capacity I provided a total of twelve witness statements and gave oral evidence to the Inquiry, in person, on four occasions.

## **Overview of the British Transport Police**

### **Legal Framework**

7. BTP is the dedicated and specialist police force for the railway, responsible by statute for policing the national rail network. The force provides a policing service to Network Rail, train and freight operators, their staff and their passengers throughout England, Wales and Scotland. BTP does not operate in Northern Ireland. It is also responsible for policing the London Underground system, the Docklands light railway, the Midland metro tram system, Croydon tram link, Sunderland metro, Glasgow subway and Transport for London's IFS cloud cable car.
8. The British Transport Police Authority (BTPA) was established by the Railways and Transport Safety Act 2003 (the Act). Its purpose is to ensure there is an efficient and effective police force for the railways. The BTPA's responsibility includes setting BTP's

strategic direction and objectives, determining BTP's budget and recruiting senior officers and staff.

9. The BTPA enters into agreements with train and freight operating companies to provide them with a policing service. These arrangements, referred to as Police Service Agreements (PSAs), contain provisions covering payment for policing. For instance, when a new rail franchise is awarded by the Department of Transport, the successful bidding company is required to enter a PSA with BTP for policing services.

### **Jurisdiction and powers**

10. Section 31 of the Act provides BTP officers with the powers of a police officer on all railway property and outside of railway property when related to railway owned land. The Act states:

*A constable of the police force shall have all of the powers and privileges of a constable;*

- (a) on track,*
- (b) on a network,*
- (c) in a station,*
- (d) in a light maintenance depot,*
- (e) on other land used for the purposes of or in relation to a railway,*
- (f) on other land in which a person who provides railway services has a freehold or leasehold interest, and*
- (g) throughout Great Britain for the purpose connected to a railway or to anything occurring on or in relation to a railway.*

11. BTP is a Category 1 responder under Part 1 of Schedule 1 of the Civil Contingencies Act 2004 and has a duty to assess and plan for emergencies.

### **Full structure and leadership**

12. Throughout the date range in question for the purposes of the Covid-19 Inquiry (January 2020 – June 2022), and as now, the Chief Constable of BTP is responsible for the overall command, direction, and control of the force. Throughout this date range the Chief Constable was supported by a Deputy Chief Constable, three Assistant Chief Constables and three Directors. The respective roles then were:

- i. Assistant Chief Constable for Territorial Policing;
- ii. Assistant Chief Constable for Public Contract and Specialist Crime;
- iii. Assistant Chief Constable for Specialist Capabilities and Counter Terrorism;
- iv. Director of People and Culture;
- v. Director of Capability and Resources;
- vi. Director of Finance.

13. In terms of structure, BTP is divided into 5 divisions, A, B, C, D, and E. The Force Headquarters at the time was housed in Camden, London (a relocation is scheduled for Spring 2025). National resources centrally controlled by Force Headquarters are referred to as A Division. The force is divided into three territorial divisions namely B, C and D.

14. The South East of England, including London, is known as B Division. The largest geographical area for BTP is C Division covering the remainder of England and Wales and includes the major transport hubs of Birmingham, Manchester, and Leeds. D Division covers all of Scotland. E Division covers specialist operations, resource planning, major events and departments responsible for preparedness and resilience.

### **Strategic setting, governance, compliance and stakeholders**

15. The BTPA issues strategic plans which sets out their medium-term and long-term strategies for policing the railways. The Inquiry date range period of January 2020 and June 2022 overlaps two separate BTP strategic plans. However, in broad terms the force mission was and remains to protect and serve the rail network and its community,

keeping levels of disruption, crime, and the fear of crime as low as possible, whilst bringing offenders to justice.

16. Whilst every police force in England, Scotland and Wales has jurisdiction across the railway, it is accepted that BTP has primacy for day to day policing of the network. BTP responds to calls for assistance from both the public and the railway companies.
17. In the same way as Home Office Forces and Police Scotland, BTP investigates all crimes which occur on the rail network or rail network land from the most serious such as murder, serious sexual assault and fraud, through to high volume offences such as theft of passenger property.
18. Sadly, people in crisis are drawn to the railway and it is also BTP's responsibility to investigate every fatality which occurs on the network. Keeping the railway moving is a primary objective of BTP. Therefore, the force has a prevention and enforcement responsibility regarding trespass on the rails, an offence which creates thousands of delayed minutes annually to passengers.
19. Through the very nature of policing, BTP operates across a wide stakeholder base. Below I set out some specific organisations and groups which BTP has regular interactions with and will have had discussions with regarding our response to policing the pandemic. In summary, key stakeholders include:
  - a. Department of Transport
  - b. Home Office
  - c. Department of Justice
  - d. Crown Prosecution Service
  - e. Crown Office and Procurator Fiscal Service
  - f. National Police Chiefs Council
  - g. 43 'Home Office' Police Forces of England and Wales
  - h. Police Scotland
  - i. British Transport Police Authority
  - j. Rail Delivery Group
  - k. Network Rail

- l. Transport for London
  - m. Transport for Wales
  - n. Transport Scotland
  - o. Multiple Railway Companies
- 20. During the pandemic, broadly speaking most business-as-usual meetings included discussions regarding Covid-19. BTP do not hold a record of which meetings included discussions with respect to Covid-19 during that specific period.
- 21. BTP did not issue guidance to stakeholders regarding how they should operate within the pandemic. The information that BTP shared with stakeholders set out our approach and our performance. BTP holds no record of how stakeholders used the information.
- 22. In terms of HM Government, BTP and the BTPA are overseen by the Department of Transport. However, BTP recognises and responds to direction and guidance from the Home Office regarding policing in England and Wales, and the Justice Directorate of the Scottish Government regarding policing in Scotland. Scrutiny and reassurance is provided to Scottish Ministers through the Scottish Railways Policing Committee which is a subcommittee of the BTPA. It equally provides reassurance to wider Scottish stakeholders on the delivery of railway policing in Scotland.
- 23. Relationships with national policing bodies are fully embedded and are well established. BTP is a full member of the National Police Chiefs Council (NPCC) and a signatory of the legal agreement under Section 22A of the Police Act 1996 which establishes the governance and structure of the NPCC.
- 24. BTP is fully affiliated to the College of Policing in the same way as every police force in the UK. BTP recognises the College of Policing as the professional body for occupational and operational qualifications, as well as for setting standards within the service. BTP fully adopts the following services and standards provided by the College of Policing:
  - i. Executive Leadership training;
  - ii. Senior Management Leadership training – multiple disciplines;

- iii. Initial recruit curriculum;
  - iv. Police promotions curriculum, examination, and qualifications;
  - v. Authorised Professional Practice for all policing disciplines;
  - vi. National police commander training and assessment for qualifications across all disciplines.
25. BTP works closely with ACRO - Criminal Records Office (ACRO). During the pandemic, BTP followed the same procedures as other forces within England and Wales for the administration of Fixed Penalty Notices (FPNs) relating to the Health Protection (Coronavirus Restriction) Regulations 2020 through the agreed ACRO process. Further explanation as to the procedure for the administration of FPNs is detailed at paragraphs 97 to 110 of this statement.
26. Recognising BTP's equality within the policing landscape, the force is a member of multiple national NPCC and College of Policing committees, working groups and forums. Since my appointment in BTP, I have been a member of the NPCC Civil Contingencies Portfolio.
27. BTP is a member of each statutory Local Resilience Forum (LRF) in England and Wales and the respective Regional Resilience Partnerships in Scotland at the strategic and tactical level. As BTP's Assistant Chief Constable for Specialist Capabilities, I sit on the strategic meeting of the London LRF.
28. During the pandemic BTP did not hold any formal national governance or advisory role on behalf of the UK Government. In the early part of 2020, the then Chief Constable Paul Crowther was invited to join a small number of No. 10 Downing Street conference 'Covid' calls chaired by Sir Ed Lister.
29. On two occasions during the Inquiry date range period, I was required to provide a briefing to the Minister of State responsible for Rail at the Department of Transport. These briefings to the Right Honorable Chris Heaton-Harris were held on a MS Teams

call and related to updates on compliance and enforcement of face coverings on the network.

30. Compliance was broadly in excess of 90% with respect to face coverings. I was asked for my professional judgement on the possibility of increasing face covering compliance through greater enforcement. My assessment was that compliance was broadly at an acceptable level, if the acceptance of 'reasonable excuses' were to continue without official documentary evidence. I equally referenced a frequently used example that non-compliance was attributed to passengers having asthma which was a listed 'reasonable excuse'. The general discussion at the time was that 5% of the population suffered with asthma of some form. This 'reasonable excuse' was being provided by many young males in urban areas who were travelling without face coverings.
31. I equally believed that the '4 Es' approach (see paragraph 45 below) was broadly well received by the public. I believe that the contents of my briefings were accepted by the Minister of State. At no time was I placed under additional pressure to move to a zero-tolerance approach or to increase the number of FPNs being issued.
32. Each police force had operational responsibility for the policing response to Covid-19. The NPCC adopted a coordination role for the UK policing response. Operation Talla was the national name given to that response. From the very onset of the policing response to the pandemic, I was a member of the Operation Talla Silver Group. Assistant Chief Constable Weatherall of the National Police Coordination Centre (NPoCC) chaired this group. BTP attended every meeting held.
33. Beneath the national coordination structure, every police force established their own command structure, led by a Force 'Gold Commander' for dealing with the pandemic. This approach was implemented by BTP. Within BTP the response to the pandemic was given the operational name 'Red Cedar'. This separate operational name was to show a clear divide between information coming 'from the Centre' i.e. the NPCC, and the management of the pandemic internally within the force.



## Enforcement Policy and Guidance Development

34. At the start of the pandemic and ahead of the first lockdown, BTP contributed to the drafting of regulations and guidance. The draft regulations were tightly controlled and were not widely circulated as a traditional consultation process. This breaking ground for Health Protection Regulations was moving at a fast pace opposed to the usual extended periods of consultation when new legislation is being developed.
35. Due to the specific relevance to the rail network, the Department of Transport did release to BTP a draft of the legislation for comment. BTP was able to influence changes for example, to exceptions to face covering regulations including the removal of a mask for the purpose of eating and drinking, as well as lip reading. These recommendations were included as part of the legislation. BTP was not involved in the drafting of regulations relating to Stay at Home or international travel restrictions.
36. Due to the impact of the regulations regarding train travel, BTP was part of the College of Policing working group which operated remotely between the 12<sup>th</sup> – 14<sup>th</sup> June 2020. The focus was regarding face covering legislation and the group was brought together to design guidance for policing nationally. The BTP contribution included staff from our Justice Solutions Team as well our Learning and Development Team.
37. In terms of specific regulations relating to the railway, BTP liaised with the Department of Transport, Rail Delivery Group and a handful of individual train operation companies regarding guidance. An example of guidance regarding self-isolation is attached to this statement as **Exhibit SOC/1 [INQ000575973]**.
38. Transport for London (TfL) were specifically engaged regarding face coverings due to concerns for the London Underground network. Initial discussions centered on concerns regarding face covering legislation potentially assisting offenders in concealing identity in the commission of crime, most notably robbery. A further concern was an increased risk of passengers fainting on hot 'Tube' trains when there were issues with the underground and the associated disruption to services that could be

caused when passengers are taken ill. History would show neither of these concerns came to fruition.

39. BTP had no involvement regarding policy and guidance with wider national organisations such as the Department for Justice, HM Courts and Tribunals Service (HMCTS) or the administration of Covid related FPNs through ACRO.
40. Throughout the pandemic BTP shared information regarding guidance and our approach to policing the regulations with multiple stakeholders. Such stakeholders included the Department of Transport, Transport for Wales, Transport Scotland, Transport Focus, Train Operating Companies and individual requests from Members of Parliament. The information was shared for awareness and reassurance purposes. BTP holds no records with respect to how this information was used by stakeholders.
41. BTP also engaged with Local Authorities and local partners under the LRF arrangements. It was through these forums that any contact primarily occurred with the devolved administrations in Wales and Scotland. BTP attended those forums when appropriate. In line with usual LRF arrangements, these meetings dealt with local approaches and responses to pandemic issues. As BTP does not operate in Northern Ireland, we had no contact with local or regional administrations within the province. Therefore, BTP equally had no engagement with the respective Emergency Preparedness Groups in Northern Ireland.
42. The devolved administrations of Wales and Scotland received updates from BTP in a weekly briefing note, which is also referenced at paragraphs 71 and 75. An example of this briefing note is attached as **Exhibit SOC/2 [INQ000505781]**.
43. Law enforcement in the UK is renowned for delivery through consent. Broadly the British public respect the 'office of constable' and comply with policing direction. It was broadly accepted that the overall intention of the regulations was to keep the majority safe through 'Stay at Home' and protecting others who were legitimately out in public by wearing personal protective equipment (PPE).

44. As soon as regulations were updated, the vast majority of people using the railways during the pandemic complied with the wearing of a face covering. The majority of those who failed to wear a mask simply forgot to wear a mask on entering the rail network or failed to bring one at all for the 'daily commute'.
45. BTP adopted the '4 Es' approach immediately when it was released. The approach of Engage, Explain, Encourage and Enforce landed well with the officers of BTP as it mirrored the operating model of policing the railway. The railway is a heavily regulated environment. In addition to all the primary legislation that exists, the network is protected by a range of Railway Regulations and Byelaws relating to staff and passengers.
46. Whilst the term 'public' transport is commonly understood, most train companies are private commercial bodies and access to services is by implied permission. Train companies have Terms and Conditions which contractually apply when a ticket is purchased or travel is taken up. Terms and Conditions, Railway Regulations and Byelaws allow for a person to be given a 'Direction to Leave' the network and this includes by using force if required, without any further judicial process taking place.
47. Whilst the 'Direction to Leave' element within the Health Protection (Coronavirus) Regulations 2020 and the 4 'E's' approach may have been new ground to many colleagues within Home Office Forces, both approaches are second nature to BTP officers.
48. At no point during the pandemic was BTP not included or sighted on changes to legislation or guidance. As set out above, when appropriate, BTP were included at pre-release stages.

#### **Guidance to BTP officers**

49. The Health Protection (Coronavirus) Regulations 2020 applied to the railway network immediately when they legally came into force. From the very start of the pandemic

BTP was issuing advice and guidance regarding 'in-house' operating procedures as well as frontline guidance when policing the network.

50. The battle rhythm of circulations continued throughout the Inquiry date range period. Examples of formal advice and guidance which were published by BTP included the following:

- a) Health Protection for staff working on the front line;
- b) Wearing of face coverings by officers on the rail network (before becoming statutory);
- c) Travel in police vehicle guidance;
- d) Health Protection Regulations (England) **Exhibit SOC/3 [INQ000575975];**
- e) Health Protection Regulations (Wales) **Exhibit SOC/4 [INQ000575966];**
- f) Reasonable Excuses (England) **Exhibit SOC/5 [INQ000575967];**
- g) Reasonable Excuses (Wales) **Exhibit SOC/6 [INQ000575968];**
- h) Processes for submitting Fixed Penalty Notices to ACRO;
- i) Approach to Test and Trace for BTP Employees **Exhibit SOC/7 [INQ000505784];**
- j) Line Manager's Guide to Covid-19 **Exhibit SOC/8 [INQ000575974].**

51. All BTP guidance documents were based on general guidance issued from Government departments, College of Policing or the NPCC.

52. Depending on the advice or guidance in question, BTP either used and circulated documents from the primary issuing organisation, or if more appropriate, rebranded this as BTP guidance with inclusion of railway specific information.

53. I considered including a timeline as part of this statement which evidenced when information was shared with BTP officers and staff. I have not done so as I can state with absolute confidence that any relevant circulations from Government, NPCC or the NHS were shared within BTP by the next working day at the latest; this included new legislation and new guidance.

54. By way of an example, on Wednesday 6<sup>th</sup> January 2021 England entered the third national lockdown for all 'Tiers'. The amended regulations were not released by the Government until late into the preceding evening. The BTP Justice team worked into the early hours updating the BTP guidance as there were significant changes from the previous lockdown. The guidance was circulated with a significant list of updated 'reasonable excuses'. The team managed to circulate the new guidance by 11am on the 6<sup>th</sup> January 2021; please see **Exhibit SOC/9 [INQ000575969]**.
55. BTP shared information with officers and staff in a number of ways. New information was mainly shared through publication on the BTP intranet site, which was accessible to all employees. During the early stages of the pandemic, weekly 'Line Manager' calls were held by the then Chief Constable. These sessions allowed for key information to be shared if timely, or for discussion points on existing circulations. As the pace of the pandemic settled, these calls moved to monthly calls, where they remain to date under the current Chief Constable. A vast majority of material was also covered at 'shift briefings' which occur at the start of duty for each officer.
56. Throughout the pandemic a BTP Gold and Silver Group met to manage the response to Covid-19. Initially these groups sat daily and then moved to Monday to Friday. Across the Inquiry date range period the frequency of these meetings became proportionate to demand and changed as the pandemic progressed. At these meetings, key changes to legislation and guidance were discussed and released for circulation. These meetings were minuted and later recorded via MS Teams as the technology rapidly progressed during the pandemic period.
57. As a national force, BTP found itself policing the pandemic across the three administrations of England, Wales and Scotland. As the disease continued to spread, BTP also operated within the eventual 'Tiers' approach to restrictions. As changes were made within each area, BTP produced and circulated geographical specific flowcharts and guidance. The difference in guidance was entirely in line with the specific areas of business geographically.

58. Each new version of guidance issued to officers clearly set out the 'reasonable excuses' and exceptions. Such briefings were critical to the proportionate and successful delivery of the '4 Es'. Guidance also clearly set out at the point of enforcement how to explain the process as a 'ticket' was not physically issued.
59. During the pandemic BTP's communication focus was predominately internally towards officers and staff and externally towards the rail industry. BTP took the decision not to take up proactive public communications regarding legislative changes. The force felt that that should remain with HM Government as a 'single source of the truth'. However, through flow charts there was a heavy emphasis on the 'explain' strand of the 4 'E's'.
60. An early 'lesson learnt' from feedback from officers was concern regarding the volume of material being published and the various storage locations where the material was being published. This led to the creation of an internal BTP Covid-19 Intranet 'micro-site' where all information was posted in a single location. The micro-site was broken down into digital chapters as follows:
- a) News and Updates - Past News Feeds / Latest News Feeds;
  - b) Resources and Reference – External Links and Information / Guidance Documents / Questions and Answers;
  - c) Communications – Line Manager Calls / Stakeholder Briefings.
61. The last recorded guidance on the Red Cedar Micro-Site is dated 19 April 2022, which refers to the revocation of face covering regulations in Scotland and Wales.
62. Throughout the Inquiry date range period, the Silver Cell within BTP maintained and refreshed a Legal Framework Document. This document held the most up to date legislation including local lockdown charts when localised lockdowns occurred for example in Leicester and Blackburn.
63. Like all public services, BTP has standing policy and procedures for dealing with core business. Sadly, almost everyday people in crisis take their own life somewhere on the railway across England, Wales and Scotland. It is the responsibility of BTP to

attend and investigate each death. Responsibilities include the safe and dignified recovery of the deceased body from the railway. Each body or body part is physically handled and removed from the scene by a BTP police officer.

64. At the start of the pandemic there was heightened concern regarding the risks of handling a deceased body where the Covid status of the person who died was unknown. A new BTP Interim Policy on body recovery in the context of Covid-19 was issued to all officers on the 20<sup>th</sup> July 2020; this policy is attached as **Exhibit SOC/10 [INQ000575970]**.
65. Throughout the Inquiry date range period BTP maintained the momentum of circulating detailed updates to officers. By way of an example on the 19<sup>th</sup> July 2021 the following information was published within the force:

***What Covid-19 regulations remain in place?***

- *In England, all regulations have now been revoked except for International Travel Regulations, Self-Isolation Regulations, and the Local Authority Power Regulations. The remaining regulations are rarely used by BTP officers, but the legal briefing flowcharts can be found on the micro-site. This means all regulations in relation to movement and gatherings, social contact and wearing of face coverings no longer exist.*
- *In Scotland, regulations relating to movement and gathering and social contact remain in place, but the entire country has now moved to 'Level 0' which means that up to 10 people from 4 households can now gather in indoor public places, 15 people from 15 households outdoors, up to 8 people from 4 households in indoor private dwellings, and all remaining hospitality can open as long as indoor premises close at midnight. Mandatory wearing of face coverings on public transport premises remain in place.*
- *In Wales, the regulations relating to movement and gathering and social contact remain in place, but the entire country has now moved to 'Level 1' which means that up to 6 people can meet indoors and any number of people may gather*

*outdoors. Mandatory wearing of face covering on public transport premises remain in place.*

- All remaining and updated regulation briefings are available on the micro-site.*

***What does this mean for me when on patrol?***

- In England, officers should no longer take any pro-active intervention towards those gathered in groups or not wearing face coverings. These are no longer offences and officers have no powers to deal with these matters.*
- If dealing with an incident related to breaches of International Travel Regulations or Self-Isolation, officers should continue to use the '4E' approach.*
- In Scotland and Wales, officers should continue to use the '4E' approach where they identify breaches of movement and gathering restrictions, or where people are identified as not wearing face coverings.*

***I have read face coverings are still mandatory on transport in London, what does this mean?***

- The Mayor of London has instructed Transport for London (TfL) to introduce a 'Condition of Carriage' to make it mandatory for passengers to continue to wear face coverings. 'Conditions of carriage' are a contract between TfL and passengers which provide TfL employees with an ability to refuse entry. This does not amount to legislation and does not provide BTP officers with any additional powers. BTP officers should not make any attempt to enforce a person to comply with a 'Condition of Carriage'.*
- This will be the same position where other operators choose to introduce 'Conditions of Carriage'.*

***What should I do if I am called by staff to deal with a 'Conditions of Carriage' breach?***

- You should firstly check that no crime or disorder has occurred (e.g. public order). If it has, you should deal with that in the usual manner. If it has not, you should*



*explain that police do not have any powers to deal with 'Conditions of Carriage' and therefore you cannot take any action.*

***What should I do if staff ask me to assist them in denying travel to somebody as they will not wear a face covering?***

- *You should explain a 'Condition of Carriage' does not provide police with any additional powers and you cannot prevent a person from travelling for this reason. TfL staff will not use force to prevent someone travelling and there is no use of force power available to BTP officers in these circumstances.*

### **Communication to the public and to the railway industry stakeholders**

66. BTP did not have any role in advising on the development of public messaging. However, BTP did sit on the NPCC Heads of Communications Group during the pandemic. This group was broadly a presentation of individual police force 'Head of Media' or equivalents. The group provided a forum for consistent messaging across forces to be discussed.

67. Throughout the pandemic there was a thirst for information regarding the compliance of wearing face coverings on the rail network which was driven from two fronts. Firstly, from the Department of Transport and secondly the rail industry with respect to a focus on staff safety and passenger confidence.

68. Initially reporting on enforcement productivity was confined to Government administrations. More specific information was being sought by railway executive teams for reassurance on BTP activity. Briefings were produced by BTP's External Affairs Department as the need arose and signed off by me to ensure a consistent approach regarding message and tone. An example of a stakeholder data briefing is attached to this statement as **Exhibit SOC/11 [INQ000505778]**. BTP has no record regarding stakeholder use of the information provided.

69. Recognising the importance of keeping the railway moving for essential / key workers, BTP regularly updated the rail industry on the number of '4 Es' interventions being undertaken. As Health Protection (Coronavirus) Regulations changed, BTP produced and shared briefing material with the rail industry to advise on our approach. One such example of this briefing material is attached as **Exhibit SOC/12 [INQ000505779]**.
70. In January 2021, BTP produced a single page 'Policing the Health Protection Regulations Fact Sheet'. This was designed to share with any Member of Parliament who contacted BTP for information. An example of a MP briefing sheet is attached to this statement as **Exhibit SOC/13 [INQ000505780]**.
71. A more detailed weekly briefing note was created which was submitted to the Department of Transport, Transport Scotland and Transport for Wales. This briefing note included weekly figures for face covering enforcement and compliance through CCTV analysis by BTP internally. This report was circulated at approximately 2:00pm each Friday afternoon. In terms of enforcement, the data was a rolling total since records began regarding interventions, 'Directions to Leave' and FPNs. An example of this briefing note is attached as **Exhibit SOC/2 [INQ000505781]**. The total number of interventions, 'Directions to Leave' and FPNs issued by BTP across the entire railway network of England, Wales and Scotland throughout the Inquiry date range period are provided within paragraph 91 of this statement.

## **Enforcement**

72. To assess passenger compliance with the wearing of face coverings within the transport network, a review process was undertaken using station CCTV cameras. This work was conducted from BTP's national CCTV centre situated in London. This centre monitors rail industry cameras which already have a CCTV feed into BTP.
73. Stations were selected in relation to information being circulated regarding high infection areas or increased levels of passenger footfall. Due to the increase in leisure travel at weekends two compliance sets were obtained. The first related to commuter travel during a weekday and the second related to weekend use classed as leisure.

74. Each week up to 20 stations were selected for compliance monitoring via CCTV. A target total of 500 passengers were observed at each location on each day. The sample data captured for each week would include approximately 17,000 passengers.
75. BTP staff would simply monitor live CCTV footage of passengers passing through the gate line / ticket barrier and count the numbers wearing a mask, face covering or not. The footage was not retained and no facial recognition technology was deployed. The data captured was then used to produce the briefings as set out in **Exhibit SOC/2 [INQ000505781]**. The high levels of compliance regarding face coverings meant that enforcement strategies did not need to be changed.

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76. The tables below relate to a report submitted on the 4<sup>th</sup> June 2021.

**Table 1: Face covering compliance in leisure and commuter times/locations**

Average Compliance – All Sample Stations			%	Change on last report	
Leisure	Saturday 29 <sup>th</sup> May	1400-1700 hrs	88.5	-2.4	
		2000-2300 hrs	85.0	2.4	
	Sunday 30 <sup>th</sup> May	1400-1700 hrs	90.2	-1.8	
		2000-2300 hrs	90.2	0.4	
	Leisure Average		Saturday 29 <sup>th</sup> & Sunday 30 <sup>th</sup> May 2021	89.0	-0.4
	Commuter	Monday 31 <sup>st</sup> May	0730-0930 hrs	93.4	-3.6
1630-1830 hrs			93.1	0.3	
Average			91.5	-1.6	
Commuter Average					
Net Compliance (median leisure and commuter)			90.2	-1.1	

**[INTENTIONALLY BLANK]**

**Table 2: Face covering compliance by location – Leisure times/hours**

Average Compliance by location* - Leisure				
Location		Compliance %	Aggregate %	Change on last report**
Waterloo Rail	Saturday	85.6	86.4	-3.2
	Sunday	87.2		
Oxford Circus LU	Saturday	88.2	89.7	-4.9
	Sunday	91.2		
Leicester Square LU	Saturday	88.2	88.3	-8.2
	Sunday	88.4		
Manchester Piccadilly	Saturday	90.4	91.7	3.9
	Sunday	93.0		
Newcastle	Saturday	86.2	87.8	-1.6
	Sunday	89.4		
Glasgow Central	Saturday	90.4	91.3	0.8
	Sunday	92.2		
Liverpool Lime Street	Saturday	83.2	86.4	9.1
	Sunday	89.6		
Leeds	Saturday	91.4	90.6	2.2
	Sunday	89.8		
Overall Average		Saturday	89.0	0.0
		Sunday		-0.4
*Target sample size for each location was 500 per day				
** Previous report data 22 <sup>nd</sup> to 23 <sup>rd</sup> May - See appendix				

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77. Throughout the pandemic BTP maintained its usual deployment model for officer numbers. On key dates, such as the lifting of 'lockdowns' or the return to school day following extended closures, additional uniformed high visibility resources were deployed in anticipation of increased passenger footfall. The purpose of such surges in visible resources was to provide the travelling public and rail staff with reassurance regarding enforcement of the face covering regulations.
78. To achieve such uplifts, I took the decision to cancel rest days for officers in order to provide additional deployable assets. This is a common operational option used by all forces across policing. However, the significant footfalls did not materialise and the tactic was not used widely throughout the pandemic.
79. At the start of the pandemic, officers were required to complete a manual paper form to record activity analysis against the '4 Es'. Initially completion was high but in context footfall on the network was low. As footfall started to increase officers were reporting 'form fatigue' and reported numbers for interventions dropped. BTP recognised the importance of the data capture and the fact that the pandemic had taken hold for longer than first expected. A fast digital solution was therefore required to re-energise recording.
80. On Monday 29<sup>th</sup> March 2021, BTP launched a digital App which was accessible on officer's work mobile devices to record Covid interventions. The App allowed for the recording of initial interventions and FPNs issued.
81. In terms of interventions the App recorded:
- 1) Location;
  - 2) Date and Time;
  - 3) If a 'Direction to Leave' was granted;
  - 4) Ethnicity;
  - 5) Officer perception of Age.

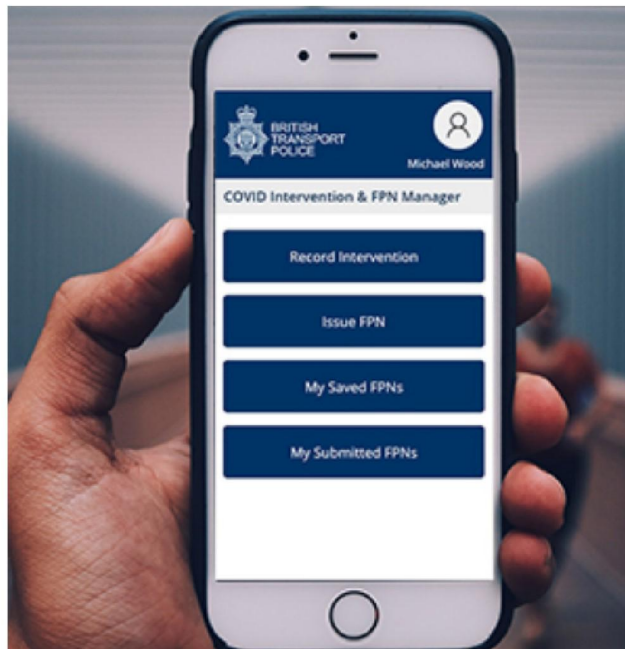
82. Perception of age was captured to understand if education regarding compliance needed to be focused on a particular age group. The regulations provided no power to ask a commuter for their age, therefore officer perception was used.
83. For the issuing of a FPN, the App required you to confirm that 'Engage', 'Explain' and 'Encourage' had been already explored:
- 1) Engage: Engage with the offender;
  - 2) Explain: Explain the current Covid regulations that are in place and that their conduct is in breach of the regulations;
  - 3) Encourage: Encourage them to comply with the regulations.
84. Each 'E' included a prompt and then required individual confirmation. Once confirmation was input that an individual had been 'ticketed' the officer could progress to the personal notice details. Once all the fields (as outlined below) had been completed, the officer could then submit the details through the Covid App.
85. The following details were captured in the digital fields of the App:
- (a) Title;
  - (b) Name;
  - (c) Date of birth;
  - (d) Post code;
  - (e) House number;
  - (f) Address;
  - (g) Telephone;
  - (h) Email address;
  - (i) Self-defined ethnicity;
  - (j) Officer defined ethnicity;
  - (k) Gender;
  - (l) Offence details;
  - (m) Date, time and place;
  - (n) Did the offence occur in Wales;
  - (o) Body Worn Video reference;

- (p) ID checked;
- (q) Identity document number;
- (r) Incident number;
- (s) Circumstances of offence.

86. Self-defined ethnicity and officer defined ethnicity are nationally established recording practices across policing regarding 'Stop and Search'. The same approach was adopted for data relating to Covid due to existing accepted process. Officer defined ethnicity is usually only recorded if the member of the public declines to state their self-defined ethnicity.

87. On the 30<sup>th</sup> November 2021, an updated version of the App was released which allowed officers to record interventions as a group as opposed to single entries.

88. Images of the BTP Covid Intervention App are shown below:





The image shows two screenshots of a 'Covid Intervention' form, connected by a blue arrow pointing from left to right, indicating a sequence of actions.

**Left Screenshot (Initial State):**

- Covid Intervention:** Title bar.
- No:** Radio button selected.
- Group:** Toggle switch set to 'Yes'.
- Ethnicity of Nominal:** Dropdown menu showing 'IC2 - White South European'.
- Officer Perception - Age of Individual:** Radio buttons with 'Over 18' selected.
- Number of Individuals:** Input field containing the number '3'.
- Add to Group:** Button.
- Individuals in the group:** Displayed as '0'.
- Submit:** Button at the bottom.

**Right Screenshot (After Action):**

- Covid Intervention:** Title bar.
- Ethnicity of Nominal:** Dropdown menu showing 'IC2 - White South European'.
- Officer Perception - Age of Individual:** Radio buttons with 'Over 18' selected.
- Number of Individuals:** Input field containing '0'.
- Add to Group:** Button.
- Individuals in the group:** Displayed as '3'.
- Group List:** A list showing three entries, each with 'Over 18' and 'IC2 - White South European' followed by a close icon (X).
- Submit:** Button at the bottom.

### Response to Tier Changes

89. Initially BTP's approach to patrol locations and the delivery of the '4E's' was in line with the business-as-usual deployment model. Once the local 'Tiers' were introduced BTP ensured train station patrols were focusing deployments on high-risk activities, prioritising high transmission areas. We equally focused on 'on train' patrols as the highest risk area for us, we prioritised according to transmission rate and footfall for each month and we tailored our approach to the level of enforcement dependent on the level of concern for each area.

### Enforcement of Health Protection (Coronavirus) Regulations

90. The UK rail network is reported to be made up of 10,072 miles of track and is served by 2,579 railway stations in the UK. In addition, the London Underground system operates using approximately 250 miles of track and is served by 272 'Tube' stations.

91. Across the entire railway network of England, Wales and Scotland, BTP 'issued' 2080 FPNs, recorded 8773 'Directions to Leave', and recorded 147,367 '4 Es' interventions throughout the Inquiry date range period.
92. BTP produced a Community Impact Assessment on the 2<sup>nd</sup> April 2020. This assessment considered the impact of policing the pandemic for the following areas:
- a) Disability;
  - b) Gender Reassignment;
  - c) Marriage and Civil Partnership;
  - d) Pregnancy and Maternity;
  - e) Race and Ethnicity;
  - f) Religious Beliefs;
  - g) Sexual Orientation;
  - h) Any other identifiable groups.
93. The impact of changes to legislation and our policing model of these groups was continuously monitored within BTP's Equality, Diversity and Inclusion team. If matters of note were identified related to an operational or tactical level, they would be addressed at the Silver Group. If the Silver Commander considered the matter to be a strategic issue, the matter would be escalated to the Gold Groups as appropriate. Officers reported that during the 'Engagement' phase, many passengers declared they had asthma as a 'reasonable excuse' for not wearing a face covering. As part of the assessment regarding hidden disabilities, no further proof was sought, and officers were briefed accordingly to accept the 'reasonable excuse'. The Community Impact Assessment is attached as **Exhibit SOC/14 [INQ000505782]**. Additional considerations are shown within the document against the dated entry. Beyond the dates shown, processes and initial impacts began to become business as usual, and no further assessments were conducted.
94. I have set out below a variety of tables which breakdown the enforcement activity recorded by BTP during the Inquiry date range period. All FPNs will have been recorded by ACRO. BTP accepts that there may have been 'Directions to Leave' or engagement with the public, which led to compliance or a 'reasonable excuse' being

accepted, which will not have been recorded. Types of 'reasonable excuses' provided or the specific regulations under which the engagement was made were not recorded. This position was taken for two reasons. Firstly, because there was no national requirement to record the data in that form. Secondly because of the balance between confidence in policing, capturing sufficient data and not delaying the movement of passengers, many of whom will have been regular commuters.

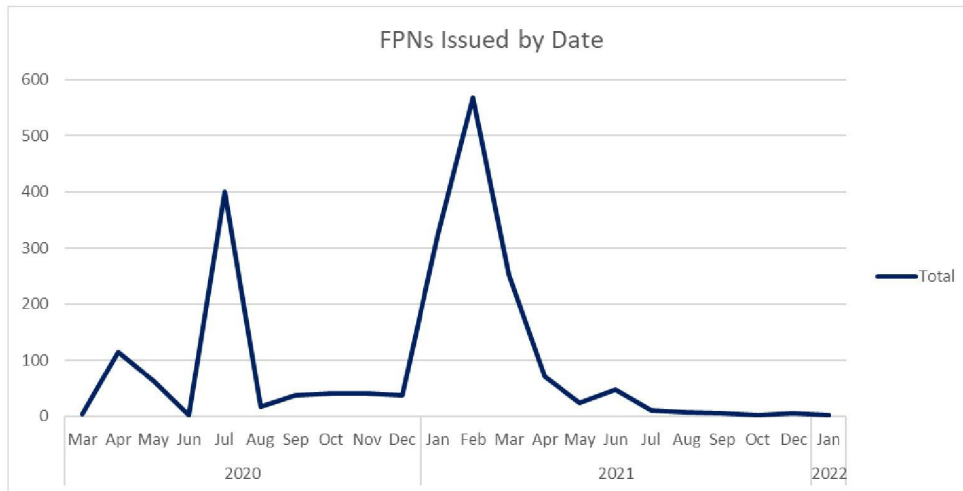
**Table 3: Enforcement by country across the reporting period**

Country	England	Wales	Scotland
Fixed Penalty Notice	1,472	234	205
Interventions	100,201	17,580	29,586
Direction to leave	6,826	756	1,191

**Table 4: Interventions and Directions to Leave by age range**

Age Range	England			Wales			Scotland		
	U18	O18	Unknown	U18	O18	Unknown	U18	O18	Unknown
Interventions	5,248	45,986	48,967	1,844	7,233	8,503	3,231	7,802	18,553
Direction to leave	616	2,636	3,574	233	180	343	787	322	82

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**Graph 1: FPNs issued by date across the Inquiry date range period**

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**Table 5: FPNs issued by month across the Inquiry date range**

<b>FPNs by Date</b>	<b>Count</b>
2020	759
Mar	4
Apr	115
May	63
Jun	3
Jul	400
Aug	17
Sep	37
Oct	41
Nov	41
Dec	38
2021	1318
Jan	324
Feb	568
Mar	253
Apr	71
May	24
Jun	48
Jul	10
Aug	7
Sep	5
Oct	2
Nov	0
Dec	6
2022	3
Jan	3
<b>Grand Total</b>	<b>2080</b>

Table 6, Table 7 and  
Stations where FPNs

Table 8: 'Top Ten'

**issued by BTP Division**

<b>FPNs by Station – B Division</b>	<b>Count</b>
Euston Railway Station	117
Liverpool Street Station	60
Brighton Railway Station	54
Paddington Railway Station	39
St. Pancras International Railway Station	36
Victoria Railway Station	36
Kings Cross St Pancras Underground Station	31
Waterloo Railway Station	26
Kings Cross Railway Station	25
Barking Underground Station	21
<b>Grand Total</b>	<b>445</b>

<b>FPNs by Station – C Division</b>	<b>Count</b>
Cardiff Central Railway Station	56
Manchester Piccadilly Railway Station	48
Leeds Railway Station	43
Birmingham New Street Railway Station	37
Bristol Temple Meads Railway Station	30
Swansea Railway Station	28
Newcastle Central Railway Station	26
Coventry Railway Station	21
Newport High Street Railway Station	18
Reading Railway Station	18
<b>Grand Total</b>	<b>325</b>

<b>FPNs by Station – D Division</b>	<b>Count</b>
-------------------------------------	--------------

Edinburgh Waverley Railway Station	102
Glasgow Central Railway Station	50
Paisley Gilmour Street Railway Station	20
Haymarket Railway Station	16
Edinburgh Park Railway Station	9
Kilwinning Station	7
Bathgate Railway Station	6
Aberdeen Railway Station	6
Glasgow Queen Street Railway Station	6
Street Record Waverley Station Edinburgh	5
<b>Grand Total</b>	<b>227</b>

**Table 9: FPNs by outcome**

FPNs By Outcome	Count	Make Up
Fixed penalty notice. (Road traffic offence) *	922	44.3%
Police - name suspect, Victim Support but evidential difficulties	637	30.6%
Accused dealt with by means of a fixed penalty notice number	254	12.2%
Suspect identified but prosecution time limit expired	115	5.5%
Police formal action not in public interest	41	2.0%
Summoned / postal requisition	33	1.6%
Charged	33	1.6%
Undetected	14	0.7%
Accused charged and detained in custody of court	4	0.2%
CPS - named suspect Victim Support but evidential difficulties	4	0.2%
Accused charged and report centre procurator fiscal	4	0.2%
CPS prosecution not in public interest	3	0.1%
Community resolution	3	0.1%
Penalty notices of disorder	3	0.1%
New prosecution	2	0.1%
Investigation complete, no suspect identified	2	0.1%
Driver awareness scheme	1	0.0%
Early and effective intervention juvenile justice procedure (>18)	1	0.0%
Offender has died	1	0.0%
Youth conditional caution	1	0.0%
Name suspect 2 ill to prosecute	1	0.0%
Offender detected but not being reported	1	0.0%
<b>Grand Total</b>	<b>2080</b>	

\*This coding has been used to close the occurrence. Review of narrative shows Covid-19 offences.

**Table 10: FPNs issued by Gender**

FPNs By Gender	Count	Make Up
Female	328	15.8%
Indeterminate	2	0.1%
Male	1674	80.5%
Unknown	25	1.2%
Blank	51	2.5%
Grand Total	2080	

**Table 11: FPNs issued by Ethnicity (Officer Defined)**

FPNs By Ethnicity (Officer Defined)	Count	Make Up
Unknown	310	14.9%
White - North European	658	31.6%
White - South European	87	4.2%
Black	256	12.3%
Asian	131	6.3%
Chinese, Japanese, SE Asian	38	1.8%
Arabic or North African	40	1.9%
Blank	560	26.9%
Grand Total	2080	

***[INTENTIONALLY BLANK]*****Table 12: FPNs issued by Ethnicity (Self Defined)**



<b>FPNs By Ethnicity (Self Defined)</b>	<b>Count</b>	<b>Make Up</b>
A1. Asian - Indian	19	0.9%
A2. Asian - Pakistani	24	1.2%
A3. Asian - Bangladeshi	14	0.7%
A9. Any other Asian background	40	1.9%
B1. Black Caribbean	39	1.9%
B2. Black African	68	3.3%
B9. Any other Black background	25	1.2%
M1. White & Black Caribbean	15	0.7%
M2. White & Black African	2	0.1%
M3. White & Asian	8	0.4%
M9. Any other mixed background	12	0.6%
NS. Not stated	529	25.4%
O1. Chinese	25	1.2%
O9. Any other ethnic group	16	0.8%
W1. White British	327	15.7%
W2. White Irish	6	0.3%
W9. Any other white background	136	6.5%
<b>Blank</b>	<b>775</b>	<b>37.3%</b>
<b>Grand Total</b>	<b>2080</b>	

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**Table 13: Total FPNs issued by Age group**

FPNs By Age Group	Count	Make Up
17 Years Old & Under	78	3.8%
18-24 Years Old	918	44.1%
25-30 Years Old	385	18.5%
31-40 Years Old	393	18.9%
41-50 Years Old	169	8.1%
51-60 Years Old	75	3.6%
61+ Years Old	35	1.7%
<b>Blank</b>	<b>27</b>	<b>1.3%</b>
<b>Grand Total</b>	<b>2080</b>	

Table 14: '4 Es' Interventions in England by Ethnicity (Officer Defined)

Interventions England By Ethnicity (Officer Defined)	Count
Unknown	24538
White - North European	44035
White - South European	4840
Black	15918
Asian	7956
Chinese, Japanese, SE Asian	1168
Arabic or North African	1746
Grand Total	100201

**[INTENTIONALLY BLANK]**

Table 15: '4 Es' Interventions in Wales by Ethnicity (Officer Defined)

<b>Interventions Wales By Ethnicity (Officer Defined)</b>	<b>Count</b>
Unknown	6286
White - North European	9763
White - South European	284
Black	584
Asian	294
Chinese, Japanese, SE Asian	154
Arabic or North African	215
Grand Total	17580

**Table 16: '4 Es' Interventions in Scotland by Ethnicity (Officer Defined)**

<b>Interventions Scotland By Ethnicity (Officer Defined)</b>	<b>Count</b>
Unknown	16775
White - North European	11928
White - South European	215
Black	274
Asian	256
Chinese, Japanese, SE Asian	81
Arabic or North African	57
Grand Total	29586

***[INTENTIONALLY BLANK]***

**Table 17: Directions to Leave in England by Ethnicity (Officer Defined)**

<b>Directions to Leave England By Ethnicity (Officer Defined)</b>	<b>Count</b>
Unknown	1128
White - North European	3067
White - South European	498
Black	1250
Asian	563
Chinese, Japanese, SE Asian	159
Arabic or North African	161
Grand Total	6826

**Table 18: Directions to Leave in Wales by Ethnicity (Officer Defined)**

<b>Directions to Leave Wales By Ethnicity (Officer Defined)</b>	<b>Count</b>
Unknown	132
White - North European	571
White - South European	8
Black	24
Asian	15
Chinese, Japanese, SE Asian	2
Arabic or North African	4
Grand Total	756

***[INTENTIONALLY BLANK]***

**Table 19: Directions to Leave in Scotland by Ethnicity (Officer Defined)**

Directions to Leave Scotland By Ethnicity (Officer Defined)	Count
Unknown	10
White - North European	1137
White - South European	11
Black	14
Asian	12
Chinese, Japanese, SE Asian	7
Arabic or North African	0
Grand Total	1191

### Arrests

95. BTP records show 163 persons were arrested for Covid-19 offences during the Inquiry date range period. Of these arrests, 135 were male and 22 were female. In 6 cases gender was not recorded. 31 arrests were for other primary offences in addition to Health Protection (Coronavirus) Regulations.

96. Of the 163 arrests, 83 related to breach of travel restrictions without 'reasonable excuse'. 46 arrests were made for face covering offences and 3 arrests for travel restrictions relating to 'Tier' restrictions.

**Table 20: Arrests by Ethnicity (Officer Defined)**

Arrests by Ethnicity	Blank	24
	Unknown	25
	White – North European	67
	Black	32
	Asian	5
	Chinese / Japanese / SE Asian	3
	Arabic / North African	7

**Table 21: Arrests by Age Group**

Arrest by Age Group	17 or under	7
	18-24	52
	25-30	34
	31-40	35
	41-50	5
	51-60	5
	61+	1

**Table 22: FPNs issued by County or Borough**

CAMDEN	253	BARKING AND DAGENHAM	22
CITY OF WESTMINSTER	153	ISLINGTON	22
CITY OF EDINBURGH	95	LINCOLNSHIRE	21
CARDIFF	71	RENFREWSHIRE	20
NEWHAM	69	NEWPORT	18
MANCHESTER	66	WOLVERHAMPTON	17
GLASGOW CITY	65	SURREY	17
CITY OF LONDON	62	LANCASHIRE	16
BIRMINGHAM	60	SWINDON	15
BRIGHTON & HOVE	54	GREENWICH	15
LEEDS	48	NOTTINGHAM CITY	15
LAMBETH	40	SOLIHULL	13
EDINBURGH	39	YORK	13
SOUTHWARK	32	HAMPSHIRE	12
TOWER HAMLETS	31	WESTMORLAND & FURNESS	12
BRISTOL CITY	30	RHONDDA CYNON TAF	12
KENT	30	LEICESTER CITY	12
SWANSEA	30	LIVERPOOL	12
NEWCASTLE UPON TYNE	26	REDBRIDGE	12
COVENTRY	23	HARINGEY	11
READING	22	BRENT	11

CAERPHILLY CTY BOROUGH	11	DEVON	6
CHESHIRE EAST	11	RICHMOND UPON THAMES	6
STOCKPORT	10	ABERDEEN CITY	6
CONWY	10	KIRKLEES	6
MEDWAY	10	CITY OF STOKE-ON-TRENT	6
SEFTON	10	HERTFORDSHIRE	6
DONCASTER	9	ABERDEEN CITY	6
WEST LOTHIAN	9	MILTON KEYNES	5
HARROW	9	WARWICKSHIRE	5
VALE OF GLAMORGAN	9	FIFE	5
KINGSTON UPON HULL	9	ENFIELD	5
WANDSWORTH	9	CUMBERLAND	5
BOURNEMOUTH C/CHURCH	9	SHROPSHIRE	5
SOUTHEND-ON-SEA	9	CITY OF SOUTHAMPTON	5
SIR DDINBYCH	9	OXFORDSHIRE	5
WALTHAM FOREST	9	WAKEFIELD	5
NORTH LANARKSHIRE	8	DERBYSHIRE	4
WIGAN	8	HACKNEY	4
SOUTH LANARKSHIRE	8	WEST SUSSEX	4
CROYDON	8	BLACKPOOL	4
NORTH YORKSHIRE	8	KENSINGTON AND CHELSEA	4
LEWISHAM	7	SHEFFIELD	4
HILLINGDON	7	EAST DUNBARTONSHIRE	4
CITY OF PLYMOUTH	7	STAFFORDSHIRE	3
NORTH AYRSHIRE	7	BARNET	3
BUCKINGHAMSHIRE	7	DARLINGTON	3
WORCESTERSHIRE	7	WILTSHIRE	3
GWYNEDD	7	EAST SUSSEX	3
ESSEX	7	MERTHYR TYDFIL	3
CHESHIRE WEST & CHESTER	6	STAFFORDSHIRE	3
BRADFORD	6	BARNET	3

POWYS	6	DARLINGTON	3
PETERBOROUGH	6	WILTSHIRE	3
WEST NORTHAMPTONSHIRE	3	DENBIGHSHIRE	1
SIR GAR	3	NORTHEAST LINCOLNSHIRE	1
CUMBRIA	2	BATH AND N/E SOMERSET	1
NORFOLK	2	THURROCK	1
SUFFOLK	2	BEXLEY	1
WEST DUNBARTONSHIRE	2	TORBAY	1
FALKIRK	2	TAMESIDE	1
CAERPHILLY CBC	2	EAST AYRSHIRE	1
DUNDEE CITY	2	NEATH PORT TALBOT	1
GLOUCESTERSHIRE	2	BROMLEY	1
SIR FYNWY	2	CENTRAL BEDFORDSHIRE	1
NOTTINGHAMSHIRE	2	CAMBRIDGESHIRE	1
WALSALL	2	BRIDGEND	1
RHONDDA CYNON TAFF	2	HAMMERSMITH & FULHAM	1
CITY OF PORTSMOUTH	2	NORTHUMBERLAND	1
SANDWELL	2	PERTH AND KINROSS	1
CARMARTHENSHIRE	2	CEREDIGION	1
TELFORD AND WREKIN	2	HIGHLAND	1
SOUTH GLOUCESTERSHIRE	2	NH NORTHAMPTONSHIRE	1
INVERCLYDE	2	NORTH SOMERSET	1
MERTON	2	Grand Total	2080

### Administration of FPNs issued by BTP

97. The administration of FPNs under the Health Protection (Coronavirus) Regulations was managed for BTP by ACRO. The force adopted in full the pre-agreed national processes. An individual could contest a FPN issued to them by contacting ACRO at the address provided on the paperwork received through the post. ACRO would then pass any challenges to the issuing force.



98. The BTP process was that this would trigger an internal review. This would involve a subject matter expert within BTP Justice Department assessing the information available against the existing regulations and processes. Thereafter, where BTP were confident the relevant policy requirements had been met and process properly followed, would progress to a Single Justice Procedure (SJP). Outside of those procedures, usual options for challenge were open to the suspect who could raise the issue by contacting the issuing officer directly or by utilising the standard BTP complaints process via our website. The option to contest the matter in court was explained on the subsequent letter sent by ACRO. An example of such a letter is provided as **Exhibit SOC/15 [INQ000575972]**.
99. BTP Justice Solutions were aware of the CPS Prosecutions review conducted at the start of the pandemic in April 2020. To my knowledge BTP had no formal direct notification of the review. I do not have any knowledge regarding BTP corporately contributing to that review.
100. All FPN procedures undertaken by a BTP officer were sent direct to ACRO without any force scrutiny or quality control. However, all FPNs that were unpaid or contested were subject to an independent review by the BTP Pre-Charge Team (PCT) who were issued with guidance on how to conduct a review of these cases.
101. The process included going through the FPNs to check eligibility such as:
- 1) Was the person 18 or over at the time of the offence;
  - 2) Whether the person was homeless;
  - 3) Was the FPN issued alongside a substantive offence;
  - 4) Has the officer followed the 3 E's before moving to enforcement and has the person complied with these;
  - 5) Did the person have a 'reasonable excuse';
  - 6) Is the evidence for the offence made out.
102. If the FPN failed any of these steps, contact would be made with ACRO to withdraw the FPN. At this point ACRO would issue a notice to the person with whom the FPN

was issued. The reference document for these review procedures is attached as **Exhibit SOC/16 [INQ000575971]**.

103. If the case passed this initial check, the issuing officer would be required to build a case file which would then be subject to an additional check by the PCT to ensure it remained suitable for SJP, and particularly that there was sufficient evidence within the case file to prove the offence and that the offence was still within its statutory time limit. The case file was built to the same level of requirements for all similar cases. The additional checks were in place to ensure the officer had included all of the relevant points in the prosecution forms and that sufficient time remained for a prosecution to be brought due to waiting for the case file to be completed and returned to the justice team by the officer.
104. As part of the work undertaken for this corporate statement, BTP has established that records are incomplete regarding the number of FPNs withdrawn through this process and are therefore unable to provide any statistics with respect to these cases.
105. BTP is aware that some SJP cases were dismissed at court. However, we have very little detail on the reason for dismissal, so are unable to ascertain whether there was a determination at court as to whether any of them were issued on an incorrect basis. The result from court, processed via the Magistrates Libra system (now Common Platform) is one where the court outcome only, with no supporting rationale for the decision, is provided to the force. The feedback BTP receive in relation to cases dismissed at court is therefore dependant on the CPS prosecutor in court capturing the relevant detail and updating the hearing record sheet, which can then be shared with BTP. We would normally have to request this information from the CPS, it is not routinely provided.
106. BTP deal with courts across both England and Wales and there is no consistency on the level of detail provided on the hearing record sheet, with some prosecutors/ regions much better at providing the necessary information. As such, the lack of detail for Covid cases being dismissed at court is not unusual. BTP would always prefer to receive the detail in relation to the court determination as this allows us to identify best

practice and lessons learned. It also allows us to fully update the officer in the case, victims and witnesses on the reasons for the court decision.

107. BTP was not involved in the initial adoption of SJP regarding Health Protection (Coronavirus) Regulations. Equally this was not our preferred method as BTP did not use SJP internally at that time and so were concerned about how it would fit in with our existing criminal justice processes.

108. BTP normally list cases at court via charge or postal requisition. Prior to Covid, SJP was predominately utilised for the prosecution of traffic cases. As such, it was beneficial for most Home Office forces to establish a SJP process with their local court and supporting internal SJP team in order to prosecute the large volume of routine traffic cases. The nature of the BTP jurisdiction meant it would not be beneficial for us to implement SJP due to the fact we; 1) have a low volume of traffic offences; and 2) our national footprint would mean needing to establish local SJP processes in multiple courts across England and Wales.

109. When SJP was first proposed for the prosecution of Covid offences in May 2020, BTP immediately made clear to the NPCC that this was not a process we already utilised. We raised our concerns early, due to the level of FPNs we were issuing as a force and our concern that our ability to prosecute unpaid and contested FPNs would be impacted. As a result of these early discussions, the NPCC advised us that they were aware that BTP (and Ministry of Defence Police) did not utilise SJP and that it was their intention to “form a centralised hub that will process SJPs on our/CPS behalf”. We then picked up liaison with NPCC and HMCTS colleagues to implement this process.

110. During the Inquiry date range period, BTP did not use the SJP for cases linked to the Coronavirus Act 2020 itself.

#### **Single Justice Procedure in connection with Test, Trace and Isolate (TTI)**

111. BTP adopted the national process regarding any self-isolation enforcement as per the national Memorandum of Understanding. This meant officers using our PowerApp

were required to submit a FPN proforma where suspicion of breach of self-isolation regulations arose. Justice Solutions were then responsible for checking with NHS Test & Trace (DHSC) or Home Office Border Force (for international travel regulations) as to whether the person had indeed received a positive test and had been advised to self-isolate.

112. If NHS Test & Trace came back with a positive result on the suspect, the FPN would be proceeded with, if not then the case would be No Further Action (NFA).
113. None of the TTI cases BTP dealt with went through the SJP process. Of the eleven we began to deal with, ten of these did not receive confirmation of the individual being in breach of self-isolation requirements. With regards to the one case BTP did deal with, the FPN was paid and so the case did not proceed to the SJP process.

### **Incorrect Prosecution**

114. BTP was responsible for one incorrect court prosecution and conviction. On the 28<sup>th</sup> March 2020 BTP received reports of a woman, later identified as Marie Dinou, loitering between platforms at Newcastle Central Station. Officers approached Ms Dinou and attempted to engage with her to understand her reasons for essential travel. However, she refused to speak to officers and having explored all options Ms Dinou was arrested on suspicion of travel fraud and breaching the restrictions imposed under the Coronavirus Act 2020. Ms Dinou was charged with failing to comply with Regulation 21 of the Coronavirus Act 2020.
115. On Monday the 30<sup>th</sup> March 2020 she appeared at North Tyneside Magistrates Court and received a £660 fine for failing to comply with the requirements imposed by the Coronavirus Act 2020 together with an £85 fine for ticket fraud and £80 in costs.
116. It was later identified that the wrong legislation had been used for the prosecution (Coronavirus Act 2020 as opposed to Health Protection (Coronavirus) Regulations 2020). Ms Dinou's conviction was reversed by the Magistrates Court by application of

Section 142 of the Magistrates Court Act 1980, which allows Magistrates to reopen a case in order to rectify an error.

117. The then Deputy Chief Constable issued a public apology. DCC Hanstock's press release stated:

*"There will be understandable concern that our interpretation of the new legislation has resulted in an ineffective prosecution. This was in circumstances where officers were properly dealing with somebody who was behaving suspiciously in the station, and who staff believed to be travelling without a valid ticket. Officers rightfully challenged her unnecessary travel. Regardless, we fully accept that this shouldn't have happened, and we apologise."*

118. The arrest of Ms Dinou occurred two days after the first 'no notice' lockdown came into effect. Officers were operating within a whole new legal framework where definitions and interruptions were not yet fully understood or practiced. The fast time interpretation of new legislation and the creation of guidance became a practiced response to emerging changes. As policing settled into the new operating environment, and as guidance followed a set structure, confidence grew and errors such as those experienced by Ms Dinou were not repeated.

#### **Collection Method used for Enforcement Data for Corporate Witness Statement**

119. Data was extracted from BTP's Crime Recording System for crimes classified as "T00 Coronavirus Offence (Temporary Code)" which was set up to record offences relating to Coronavirus.
120. From that report we were able to bring back Person Classification data, based on an individual's involvement in the incident and any that were perceived to be in relation to an individual not being issued with a FPN were removed.
121. The age of the individual issued with a FPN was calculated based on the Committed Date of the offence and the Date of Birth as it was recorded on the Crime

Record. For the occasions where the Committed Date was blank, the Recorded Date was used as this should be within 24 hours of the Committed Date (in line with Crime Recording Standards).

122. The Station for each record is based on the Reporting Location. e.g. there could be an offence that took place at Euston, but BTP Officers were not made aware of the incident until Milton Keynes where they then reported the individual. In this instance Milton Keynes would be location against where the FPN was issued.

### **Lessons Learned**

123. BTP has not been part of any external reviews or external lessons learned exercises relating to the pandemic. As Strategic Commander for the force, I am not aware of any invitation to take part in such events.
124. BTP has a dedicated Lessons Exploitation Centre (LXC) which solely deals with 'lessons learnt'. This unit coordinates areas of concerns and brings key individuals together to resolve matters. The unit is also responsible for the debriefing of major events which the force has been involved with. For large scale events, full reports are published. For individual matters that are resolved, the outcome is published on LXC Key Lessons – 'You Said: We Did' bulletins.
125. The LXC responded to matters raised from either the Gold Group or the Silver Group. Individual items were placed on the LXC Red Cedar Action Tracker. 24 entries were recorded on the tracker ranging from problems accessing deep cleaning for the BTP estate, to processes for accessing vehicles under repair in third party workshops closed due to lockdowns. A copy of the tracker is attached to this statement as **Exhibit SOC/17 [INQ000505783]**.
126. For Operation Red Cedar the LXC published seven 'You said: We Did' documents. These publications covered the following topics:
- i. Cleaning of Police Cars with suspected Covid-19 passengers;
  - ii. Home Workers Line Managers Calls;

- iii. Contact with those staff members off sick;
- iv. Internal reporting of sickness;
- v. Multiple sources of information - Officers directed to Micro-site;
- vi. High Risk personnel working from home;
- vii. Keeping In Touch – Staff on Maternity Leave;
- viii. Fleet vehicle recovery issues due to contractor working from home;
- ix. Confirmation of PPE mask standards - Concerns of different masks.

**Additional matter for the Inquiry's attention regarding key challenges and difficulties**

127. BTP would like to raise one issue which the force believes should be established ahead of any future pandemic. Throughout the pandemic the phrases 'Key Worker' and 'Essential Worker' caused much confusion, especially when dealing with 'reasonable excuses'. The lack of clear definition for either phrase or a clear procedure for demonstrating affiliation to either descriptor made enforcement difficult and a subjective test for each individual officer.

128. BTP accepts there is no easy definition. Early attempts at creating a BTP guidance definition moved to the 'obvious' such as doctors and nurses. Debate then ensued regarding the inclusion of direct support staff for front line medical staff, such as porters or hospital cleaning staff. The debate was repeated with the same inconclusion for other professions.

129. Whilst it may be an impossible task to resolve, BTP believes a task and finish group to provide a recommendation to HM Government may be an advantage and assist when navigating such phrases if required in the future.

130. BTP believes the correct balance was set in terms of enforcement and sanction. Powers to require proof of address on request of a constable to allow for checks regarding isolation may have been required if mass deaths became the challenge. However, such restrictions may have increased tensions resulting in protest or civil

disorder. Both scenarios would have brought more people together on the streets and created even greater pressure on policing.

131. From a BTP position compliance was at a level that was acceptable. Further sanctions could only have been greater use of arrest powers, which would have brought challenge to Code G Codes of Practice – Police and Criminal Evidence Act 1984 regarding necessity for arrest and proportionality.

132. BTP holds no evidence that officers were unable or unwilling to discharge their duties under the legislation introduced during the pandemic.

### **Statement of Truth**

I believe that the facts stated in this witness statement are true. I understand that proceedings 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:

**Personal Data**

**21st March 2025**

Dated: \_\_\_\_\_