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## Data report on Police Use of Fixed Penalty Notices under the Coronavirus Regulations in Scotland

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## Acknowledgements

This report has been produced to support the deliberations of the Independent Advisory Group (IAG) on Police Use of Temporary Powers related to the Coronavirus Crisis established by the Scottish Police Authority in April 2020. Access to data and evidence has been a vital element of the work of the IAG, and thanks are extended to members of Police Scotland's Operation Talla Information Collation, Assurance and Liaison (OpTICAL) Group, led by ACC Gary Ritchie, for their assistance in providing data and offering expert advice to support the work of the IAG. Thanks are also extended to members of the IAG, chaired by John Scott QC, for their comments on earlier drafts of this report and insights from their own areas of work that have improved the focus of data analysis. The production of reports and briefing papers for the IAG has been facilitated by the Scottish Police Authority secretariat, so thanks are also extended to them for their diligence and unfailing support. The development of this, and other, reports for the IAG has also been supported by members of the Understanding Inequalities project and the Scottish Centre for Administrative Data Research, both based at the University of Edinburgh. While this report has been developed to support the scrutiny role of the IAG, the views expressed do not necessarily reflect the views of IAG members, and all opinions, interpretations of the data and errors are the responsibility of the author.

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# Executive Summary

## Background

- This report provides analysis of the Fixed Penalty Notices (FPNs) issued by Police Scotland under the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020 which were approved by the Scottish Parliament on 27<sup>th</sup> March 2020.
- The Regulations introduced temporary policing powers which enabled police officers to issue a FPN to anyone age 16 or over or, in extreme circumstances, arrest them for non-compliance with the Regulations.
- The Chief Constable of Scotland has consistently stated that police officers will only use enforcement to deal with those who blatantly disregard the Regulations and accompanying government guidance.
- The data analysed in this report includes all FPN tickets issued between 27<sup>th</sup> March and 31<sup>st</sup> May, which covers the initial phase of the lockdown in Scotland.
- The report focuses on the nature and circumstances of the FPNs issued and the aggregate demographic profile of all recipients, but does not include analysis of individuals or details of repeat offending, which will be the subject of a later report.
- The data and evidence presented in this report will be used to support the IAG in its scrutiny of policing during the pandemic in Scotland.

## Number and nature of Fixed Penalty Notices

- Between 27<sup>th</sup> March and 31<sup>st</sup> May 2020, 4,328 FPN tickets were issued in Scotland.
- There was a sharp rise in the use of FPNs in the first two weeks after the Regulations came into being, peaking around 10-12<sup>th</sup> April, and then a gradual decline punctuated by spikes in enforcement activity.
- By the end of the initial lockdown phase, there was very little use of FPNs in Scotland.
- The reduced pattern of activity reflects the Chief Constable's public messaging around minimal use of enforcement, but is also likely to reflect changes in the focus of operational policing as lockdown eased and business gradually returned to normal.
- The vast majority of FPN tickets issued were for the value of £60, which suggests that repeat breaches of the Regulations were relatively rare.

## Demographic profile of Fixed Penalty Notice recipients

- FPNs were more than three times as likely to be issued to a man as a women, although the age profile of FPNs involving male and female offenders was very similar.
- Most FPNs were issued to younger people, with a peak age of 18 for men and 19 for women, and the likelihood of receiving an FPN declined gradually with age.
- Comparing FPNs against stop and search encounters showed that the age profile of those involved was virtually identical, but the proportion of FPNs involving women was larger than that for searches.
- More than nine out of ten FPNs were issued to people who were recorded as White, with Asian being the most common ethnic group amongst those who were recorded as BAME.
- FPNs were more likely to involve people from BAME backgrounds than stop and search encounters, which was largely a result of more FPNs involving Asian people.
- Most FPNs were issued to people who were born in Scotland, but non-British nationals were slightly over-represented compared to the general population.

- Although a sizeable minority of FPNs involved people born in other countries, a very small number of FPNs were issued to people who were not resident in Scotland.
- It is not possible to draw any strong conclusions about disproportionality in policing practice based on the demographic profile of FPN recipients; and caution should be taken before making any inferences based on the comparison with stop and search data.

### Criminal history of Fixed Penalty Notice recipients

- The majority of FPNs were issued to people who already had at least one record on Police Scotland's criminal history system.
- The average age of first contact with the police amongst FPN recipients was 19.3 years, although it was higher for women than men.
- The older a person was at the time of receiving a FPN, the older they were at the time of their first contact with the police on average.
- It was not possible to analyse data on the number of prior police contacts or when FPN recipients had most recently come to the attention of the police.

### Timing and locus of Fixed Penalty Notices

- There were marked spikes in the use of FPNs at particular times, which coincided mainly with weekends, holidays and periods of good weather.
- FPNs were more likely to be issued for breaches to the Regulations that occurred in public places (such as visiting tourist hot spots) than those that involved indoor activity (such as house parties).
- Patterns of activity suggest that the factors that led to increases and decreases in police use of FPNs over time were as likely to influence breaches of the Regulations in public places as those occurring indoors.
- FPNs issued for incidents occurring in public places peaked in the afternoon, whereas incidents occurring indoors peaked late at night and in the early morning.

### Geographical profile of Fixed Penalty Notices issued

- Most FPNs were issued in the West of Scotland, with far fewer in the East and North; and, even taking population size into account, there was greater use of FPNs in the West.
- Greater Glasgow Division had issued the largest number of FPNs overall; however, when population size was taken into consideration, Argyll and West Dunbartonshire Division had the highest rate of activity (which mainly reflected visits to tourist hot spots).
- A substantial minority of FPNs were issued to people in one Division when they were resident in another one, which indicated considerable cross-border travel.
- Argyll and West Dunbartonshire Division issued the highest proportion of FPNs to people who were resident in another Division, followed closely by Edinburgh.
- Comparing the 'offence-based rate' with the 'offender-based rate' showed that some Divisions dealt with a greater degree of cross-border travel compared to others.
- In Argyll and West Dunbartonshire Division in particular, the offence-based rate of FPNs was higher than all other Divisions, but the offender-based rate was on a par with Greater Glasgow and Renfrewshire and Inverclyde.
- People living in the North of Scotland were rarely issued with FPNs in other Divisions; while those living in Eastern Divisions who received an FPN in another Division were most likely to have travelled to another Eastern Division.
- The highest proportion of cross-border travel within a Division involved people from the Lothians and Scottish Borders being issued with FPNs in Edinburgh.

- People living in the West of Scotland were most likely overall to have received a FPN in a Division they did not live in.
- Argyll and West Dunbartonshire had dealt with the greatest degree of cross-border FPNs involving people from the West; however, it was also high in Renfrewshire and Inverclyde, Ayrshire, Greater Glasgow and Forth Valley.
- Temporal patterns across Divisions showed no clear pattern or consistency which suggests that the issue of FPNs was unlikely to be driven by 'macro-level factors', and most likely to be driven by local factors and challenges faced by officers in their areas.
- There was also substantial variability in the proportion of FPNs that were issued in public places or indoors by Division, with Fife issuing the highest proportion of FPNs for indoor related Regulatory breaches and Tayside issuing the lowest proportion.

### Deprivation profile of Fixed Penalty Notice recipients

- There was a strong and significant relationship between the use of enforcement and the level of deprivation relating to the home addresses of FPN recipients.
- The likelihood of being issued with FPN was twelve times higher for those living in the 10% most deprived parts of Scotland compared to those in the 10% least deprived areas.
- FPNs were more likely to be issued to women living in the most deprived communities than men living in similar areas.
- People of all ages from deprived communities were more likely to be issued with a FPN; but it was highest for those in middle age than for younger people or those in the oldest age groups.
- FPNs were more likely to be issued to White people and those from African, Black or Caribbean backgrounds living in the most deprived communities than those of Asian or any other ethnic backgrounds.
- There was no significant difference in the deprivation profile of White people compared to those from African, Black or Caribbean backgrounds; although, the disparity between those in the most and least deprived communities being issued with an FPN was higher for people from African, Black and Caribbean origins than for White people.

### Comparison of Fixed Penalty Notices issued in Scotland to England and Wales

- According to a recent report, the rate of FPNs in England was 3 per 10,000 people and the rate in Wales was 6 per 10,000 people.
- Based on the data used for this report, the equivalent figure for Scotland is 7.8 per 10,000 people; however, this is based on the number of FPNs *issued* whereas the figures for England and Wales are based on the number of FPNs *processed for payment*.
- It is, therefore, not possible to accurately compare the rate of enforcement based on FPNs in Scotland with England or Wales.

## 1. Introduction

This report provides the first detailed analysis of Police Scotland's use of Fixed Penalty Notices (FPNs) during the initial lockdown phase of the Coronavirus pandemic. The data used in this report were provided by the Operation Talla Information Collation, Assurance and Liaison (OpTICAL) Group within Police Scotland in support of the work of the Independent Advisory Group on Police Use of Temporary Powers related to the Coronavirus Crisis (hereafter referred to as the IAG), established by the Scottish Police Authority in April 2020. The report provides information on all FPNs that were issued in Scotland over the period from 27<sup>th</sup> March to 31<sup>st</sup> May. The data and evidence presented here will be used to support the IAG in its scrutiny role around the policing of the pandemic in Scotland.<sup>1</sup>

This report forms part of a series of papers that have been commissioned by the IAG and presented to the SPA Board.<sup>2</sup> An earlier paper offered a detailed analysis of all policing activity in relation to the use of the temporary powers, using data from the Coronavirus Information (CVI) System established by Police Scotland.<sup>3</sup> To our knowledge, the CVI System is the only database of its kind to be used to measure the overall use of extended policing powers across the UK police forces since the start of the pandemic. Using the CVI data, it was possible to show that only around six percent of all policing activity during the early months of the lockdown in Scotland involved use of FPNs. This report provides a more detailed analysis of the FPNs issued by Police Scotland, including where and when they were issued, an aggregate demographic profile of those who received them, the geographic and socio-economic distribution of FPNs, and the impact of cross-jurisdictional travel. The report also includes a tentative comparison of Scotland with police forces in England and Wales, although there are differences in the data which prevent a direct comparison.<sup>4</sup>

The work of the IAG in reviewing data and evidence is ongoing, and so this report offers only a partial picture of the enforcement activity of Police Scotland in response to the pandemic. The timeframe of this report is restricted to the initial lockdown phase, and does not discuss ongoing use of the FPNs during phases 1, 2 and 3. In addition, this report does not include a detailed analysis of the individual people who received FPNs or the profile of those who were in receipt of more than one ticket. And it does not include information on those people who were arrested for breaching the Coronavirus Regulations during lockdown. These topics will be included in further reports to the SPA Board in September and October 2020.

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<sup>1</sup> For further details of the IAG and its terms of reference, see <https://www.spa.police.uk/strategy-performance/independent-advisory-group-coronavirus-powers/>

<sup>2</sup> Papers presented to SPA Board meetings detailing the work of the IAG so far can be found on the Authority website: <https://www.spa.police.uk/meetings/authority-meetings/30-june-2020/> and <https://www.spa.police.uk/meetings/authority-meetings/19-august-2020/>

<sup>3</sup> McVie, Morales and Pantoja (2020) Interim report on data for the Independent Advisory Group on Police Use of Temporary Powers related to the Coronavirus Crisis. <https://www.understanding-inequalities.ac.uk/police-use-of-new-covid-19-powers-admin-data-analysis>

<sup>4</sup> Published data from England and Wales includes only those FPNs that were processed; however, the Scottish data published in this report includes all FPNs that were issued, including some that were never processed, either because they were issued in error or rescinded.

## 2. Background

Under the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020 (hereafter referred to as the Regulations), Police Scotland was given extraordinary temporary powers in an effort to reduce the spread of Covid-19 and help save lives. The Regulations, which came into effect on 27<sup>th</sup> March 2020, gave police officers the power to enforce social distancing measures amongst the public and businesses in line with strict public health guidance. People were asked to work from home where possible and only to leave their homes if they had a 'reasonable excuse' or to exercise within their local area. The powers gave police officers the ability to close businesses, direct people to return home, forcibly take people to a medical facility and disperse groups of three or more people from different households, whether congregating in a public or a private area. They were also able to take steps to ensure that parents prevented their children from breaching the Regulations. Separate Regulations were introduced for England, Wales and Northern Ireland. While these were very similar at the start of the lockdown period, amendments to the Regulations became increasingly varied as lockdown progressed and as different parts of the UK began to ease restrictions at different times.

In the event that individuals did not comply with or adhere to the Coronavirus Regulations and were considered to have committed an offence, Police Scotland was granted the authority issue a Fixed Penalty Notice (FPN) to anyone age 16 or over<sup>5</sup> or, in extreme circumstances, to arrest them. From the beginning, the public messaging from Police Scotland placed an emphasis on policing by consent and stressed the importance of personal responsibility in supporting the collective effort to reduce the spread of the virus. On 27<sup>th</sup> March, the Chief Constable expressed an expectation that the public would 'do their duty and contribute to the national effort to keep people safe from the spread of coronavirus'.<sup>6</sup> He recognised that the Regulations placed unprecedented restrictions on public movement and freedom of association and that this would be a significant challenge to individuals and families, but emphasised that 'those who persistently and blatantly defy the law must know we will enforce the law'.

On 3<sup>rd</sup> April, the Chief Constable thanked the public for their 'overwhelming support and co-operation' during the first week of the new Regulations and noted that the majority of people were complying with the guidelines.<sup>7</sup> However, he reported that enforcement had been used against individuals who had 'no intention of adhering to the Regulations', such as engaging in large social gatherings and house parties. Recognising that policing in Scotland gained its legitimacy and authority from the consent of the public, he reiterated that 'we will always encourage compliance but, as a last resort, we will use the enforcement powers which are in place'. At the same time, guidance was issued to officers in the use of the '4Es' strategy. It was stressed that officers should use engagement, explanation and encouragement as much as possible and, only when absolutely necessary and after sufficient warnings, resort to enforcement.

An Independent Advisory Group (IAG) was established on 9<sup>th</sup> April to provide scrutiny of Police Scotland's use of the temporary powers in Scotland. Data were made available to the IAG from the Coronavirus Intervention (CVI) System, a bespoke database established by Police Scotland so

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<sup>5</sup> In Scotland, an amendment to the Regulations was passed on 20<sup>th</sup> May 2020, increasing the minimum age at which an FPN could be issued to 18, on the basis that the original wording was incompatible with the definition of a child under Scots Law and the UNCRC.

<sup>6</sup> Police Scotland News Release, 27<sup>th</sup> March 2020: <https://www.scotland.police.uk/whats-happening/news/2020/march/social-distancing-enforcement-measures-in-place>

<sup>7</sup> Police Scotland News Release, 3<sup>rd</sup> April 2020: <https://www.scotland.police.uk/whats-happening/news/2020/april/public-thanked-for-support-during-first-week-of-new-regulations>



that police officers could record all use of the powers (including dispersals, FPNs and arrests). Using data from the CVI system, an interim report was published on 30<sup>th</sup> June on behalf of the IAG which highlighted that only six percent of all activity recorded in relation to the use of the temporary powers in Scotland had involved use of a FPN and less than 1% had involved an arrest.<sup>8</sup> The report confirmed that, in the vast majority of incidents, police were using the first three Es, mainly in the use of dispersal after engagement and explanation, but sometimes requiring use of encouragement.

The purpose of this second data report is to examine in more detail Police Scotland's use of enforcement. Specifically, it examines the pattern and profile of all incidents in which a FPN was issued in relation to the Regulations between 27<sup>th</sup> March and 31<sup>st</sup> May 2020, which covers the initial lockdown period in Scotland. The CVI System was not suitable for collecting detailed information on FPNs and, as there was no existing information system in place to collate this information electronically, a bespoke dataset was created by Police Scotland's OpTICAL Group. This involved taking the details from each paper FPN ticket and entering it manually into a spreadsheet. As much information as possible was included about the personal characteristics of the people who had received FPNs, which sometimes involved contacting police officers or matching records of known offenders against other Police Scotland datasets.

Data cleaning and consistency checks have been conducted to ensure that the FPN database is as accurate as possible. Nevertheless, it is possible that there is some degree of error in the data. It should be noted that this report is based on all FPN tickets issued, including those that were rescinded at a later date or were not processed for another reason.

### 3. Number of Fixed Penalty Notices issued

Between 27<sup>th</sup> March and 31<sup>st</sup> May 2020, 4,328 FPN tickets were issued under the Coronavirus Regulations in Scotland. This is a small number in absolute terms (for example, the police recorded around 30,000 incidents over the same time period) and it means that less than 0.1% of the total Scottish population were issued with an FPN. To a large extent, this reflects the overwhelmingly high levels of compliance with the Regulations observed amongst members of the population during the initial phase of lockdown.<sup>9</sup> However, it also reflects Police Scotland's policy of moving to enforcement only when all other options had been exhausted.

The number of FPN tickets that were issued is higher than the number recorded on the Coronavirus Intervention (CVI) system over the same period (n=3,163). This is a discrepancy of 1,165 (or 26.9% of the total). Figure 1 shows the difference in the daily number of FPNs recorded by the ticketing system to that entered on the CVI system. The discrepancy between the systems appears to be biggest on days where there was a lot of activity, and so may reflect non-recording of enforcement activity by officers during busy periods. In addition, there may have been some non-recording on the CVI system of tickets that officers knew had been issued in error or rescinded. Since the FPN dataset analysed for this report involved analysis of actual tickets, it represents a more accurate measure of the total amount of enforcement activity. Nevertheless, the two trend lines show a similar pattern over time, which suggests that the CVI

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<sup>8</sup> McVie, Morales and Pantoja (2020) Interim report on data for the Independent Advisory Group on Police Use of Temporary Powers related to the Coronavirus Crisis. <https://www.understanding-inequalities.ac.uk/police-use-of-new-covid-19-powers-admin-data-analysis>

<sup>9</sup> See, for example, the results of the Scottish Police Authority public surveys: <https://www.spa.police.uk/news/survey-of-public-views-on-policing-of-covid-19-published/>

System provides an accurate picture of the overall fluctuation in activity. In other words, the under-recording on the CVI system does not give any indication of systematic bias over time.

Figure 1 shows a sharply rising trend in the use of FPNs during the first two weeks of the Regulations coming into force. The use of enforcement peaked around the 10-12<sup>th</sup> April before declining gradually to the end of May. There were some spikes in enforcement activity around the end of April and early May, which coincide with bank holidays and some exceptionally good weather in Scotland, as well as some changes in messaging around the restrictions of movement during lockdown. However, it is clear that, after the first two weeks of policing activity, there was a gradually diminishing reliance on enforcement amongst police officers in Scotland. By the end of the initial lockdown phase, there was virtually no use of FPNs in relation to breaches of the Coronavirus Regulations at all. While this pattern of activity reflects the Chief Constable’s public messaging around the use of enforcement only in extreme circumstances, it is also likely to be due to changes in the focus of operational policing as lockdown eased and business gradually returned to normal.

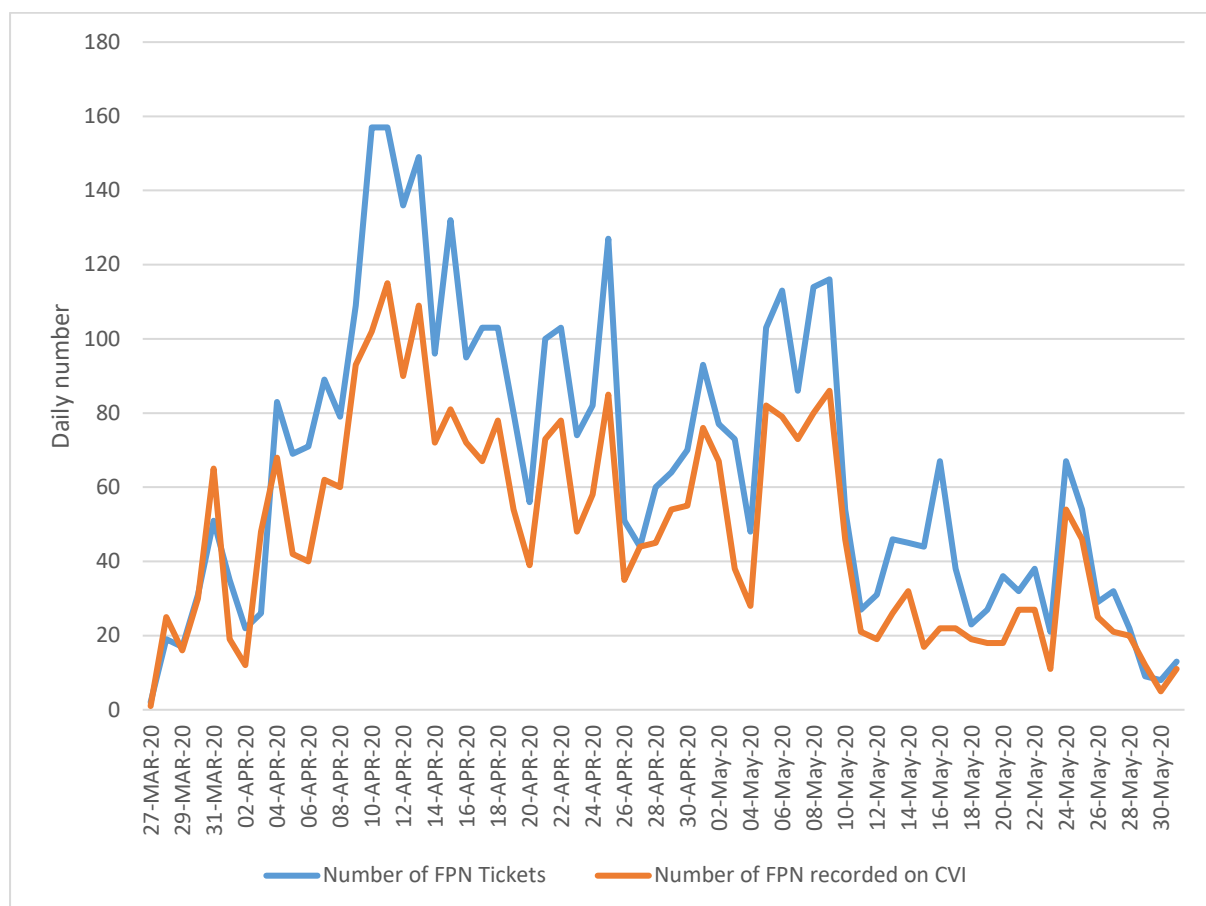


Figure 1: Comparison of daily number of FPNs recorded on ticketing and CVI systems, 27<sup>TH</sup> March to 31<sup>st</sup> May 2020

#### 4. Value of Fixed Penalty Notices issued

The value of the FPN in Scotland was fixed at £60 (with a reduction to £30 if paid within 28 days). Under the Regulations, up to five FPNs could be issued, with the value doubling each time to a maximum of £960. Figure 2 shows the distribution of FPNs issued according to the value of the ticket recorded by the issuing officer. The majority of FPNs issued during this

period were recorded as being for the lowest ticket amount of £60.<sup>10</sup> The remaining FPNs were for values between £120 and £480, although only 2.5% of all tickets were for £240 or more. There were no recorded cases involving a ticket with a value of £960.

Despite there being an incremental system of FPN issue, some individuals were issued with more than one £60 ticket. According to Police Scotland, it is likely that in some instances officers may have issued a £60 ticket rather than a £120 as they were unaware that the individual had already been issued with a FPN. In other instances, the recording of two £60 tickets may reflect the fact that the initial FPN was rescinded or issued in error and, therefore, not processed. There were also a few anomalies in the dataset relating to the amount of the FPN issued for repeat offenders. As we are more interested in the fact that a FPN was issued rather than the amount, this is not discussed further in this report.

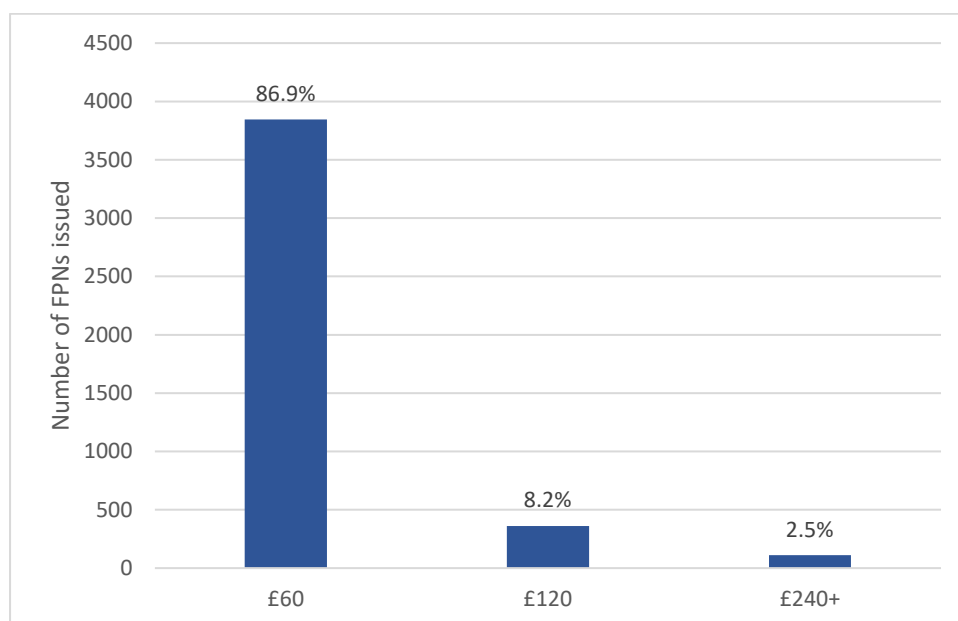


Figure 2: Distribution of FPNs issued by value in Scotland, 27<sup>th</sup> March to 31<sup>st</sup> May 2020 (n=4,317)

## 5. Demographic profile of Fixed Penalty Notice recipients

This section of the report examines the aggregate demographic profile of all FPN recipients.<sup>11</sup> This provides an indication of which groups within the population were at greater risk of failing to comply with the Coronavirus Regulations even after police had applied the first three Es (engagement, explanation and encouragement). Looking just at the FPN data, it is not possible to draw any strong conclusions about disproportionality in policing practice. To do this would require robust data about the demographic profile of all those who failed to comply with the lockdown Regulations, not just those who were subject to enforcement, but such data do not

<sup>10</sup> There were 11 FPN cases with missing information on the amount of the ticket issued.

<sup>11</sup> It is important to distinguish between the aggregate profile of FPN recipients (in which the same individual can be counted multiple times) and the individual profile of all people who received one or more FPNs (in which the same individual is counted only once). Comparison to the demographic profile of the population is only truly accurate when compared with the individual profile of those who received FPNs, which is not the case here.

exist. In an effort to provide some context for this report, comparisons have been made with data on stop and search. These data are publically available and allow us to make comparisons of two groups within the population that have experienced policing, which is preferable to making comparisons to the general public. Nevertheless, it is acknowledged that the circumstances and use of suspicion in stop and search activity would be very different to the circumstances in which officers issued FPNs during the pandemic, so comparisons based on the age, sex and ethnicity of all those who were stopped and searched during April and May 2019 are indicative only.<sup>12</sup>

## 5.1 Age and sex of FPN recipients

Of all FPNs issued during lockdown, 77.5% involved a male recipient and 22.5% a female recipient.<sup>13</sup> Figure 3 shows the age and sex profile of all FPNs. It clearly demonstrates that FPNs were disproportionately issued to younger people, with a peak age of 18 for men and 19 for women.<sup>14</sup> A fifth (20.4%) of all FPNs were issued to people aged under 21, which accounts for only 6.5% of the population; while more than half (53.6%) were issued to people aged 30 or under, which accounts for 22.7% of the population. Although the total number of FPNs issued to women was much smaller than for men, the overall age profile was similar. This suggests that age was a more critical factor in determining police use of enforcement than sex.

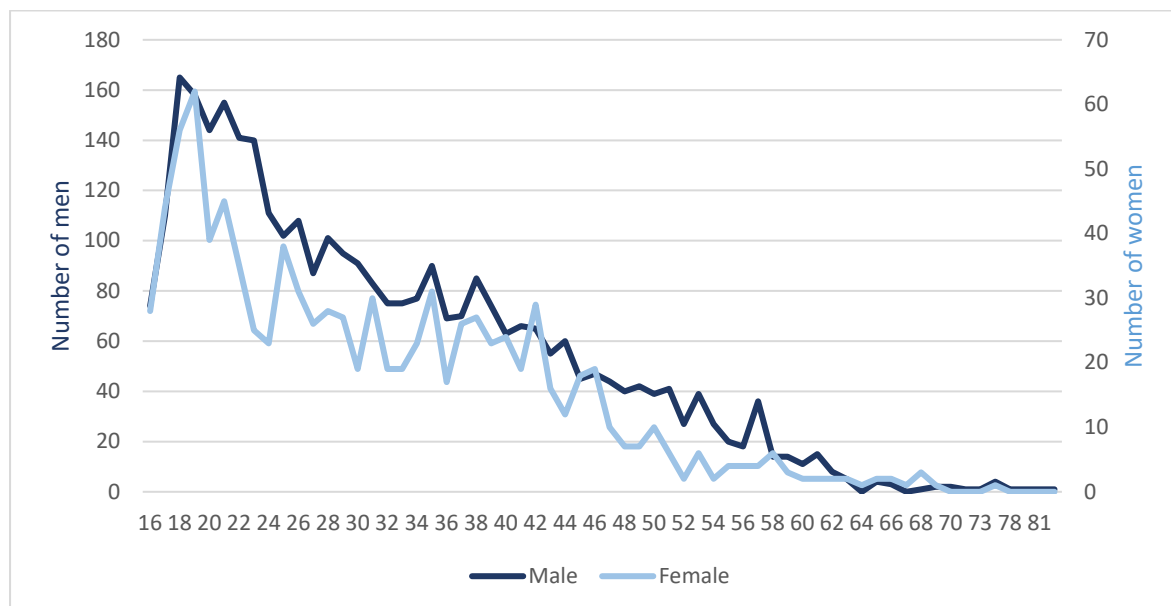


Figure 3: Number of FPNs issued by age in Scotland, 27<sup>th</sup> March to 31<sup>st</sup> May 2020 (n=4,325)

It is worth re-iterating here that the absolute number of people who were subject to enforcement during lockdown was very small (less than 0.1% of the total Scottish population). So even though there was disproportionately in the age and sex profile of those who received FPNs, the number of people involved at any age represented a very small proportion of the overall population. This is consistent with general reports about widespread public compliance

<sup>12</sup> Stop and search data from the Police Scotland website were analysed for April and May 2019, to retain seasonal consistency but to avoid any differences that may have been introduced due to the pandemic.

<sup>13</sup> There were 11 FPN cases with missing data on sex of the offender.

<sup>14</sup> There were 3 FPN cases with missing data on age of the offender.

with the Regulations, especially during the initial phase of the lockdown in Scotland. Nevertheless, research found that levels of compliance were lower amongst people under the age of 30, especially as lockdown progressed, which may help to explain the age profile of FPNs issued in Scotland.<sup>15</sup>

Comparison was made with the age and sex profile of those who were stopped and searched by Police Scotland during April and May in 2019 (n=7,998).<sup>16</sup> Only 15.1% of all police searches involved women, which was significantly lower than the proportion of FPNs involving women. However, the age profile of searches and FPNs was virtually identical as shown in Figure 4. The age profile by sex for searches was slightly different to that shown in Figure 3 for the FPNs (the profile of searches for women between the age of 20 and 40 was flatter); nevertheless, it demonstrated the same overall pattern with a large over-representation of policing amongst younger people.

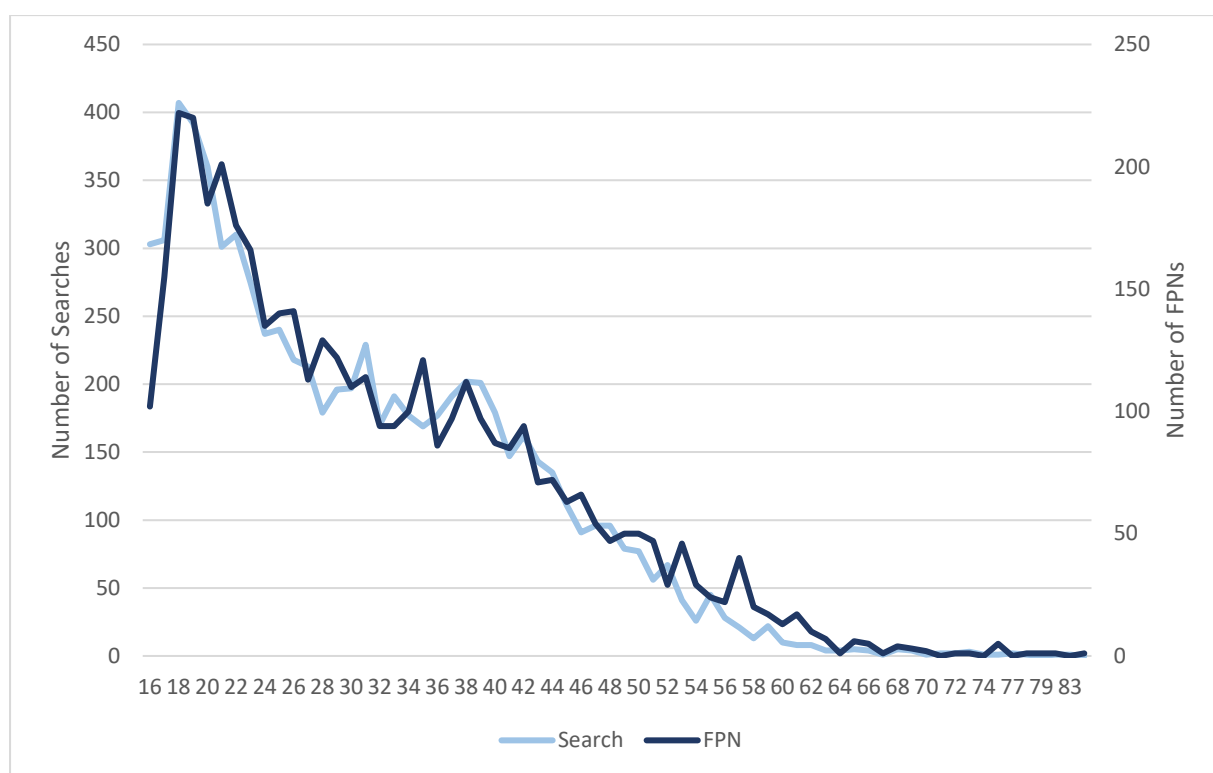


Figure 4: Number of FPNs by age in Scotland, 27<sup>th</sup> March to 31<sup>st</sup> May 2020 and Number of stop searches by age in Scotland, 1<sup>st</sup> April to 31<sup>st</sup> May 2019

## 5.2 Ethnicity of FPN recipients

Where ethnic group was recorded, the vast majority (92.5%) of FPNs were issued to people who were recorded as being White.<sup>17</sup> Of the remaining tickets, 4.4% were issued to those from an Asian background, 1.7% each were issued to people from African, Black or Caribbean

<sup>15</sup> Fancourt, D., Bu, F., Mak, H.W. and Steptoe, A. (2020) Covid-19 Social Study. Results Release 9. Nuffield Foundation. <https://mk0nuffieldfounpg9ee.kinstacdn.com/wp-content/uploads/2020/04/COVID-19-social-study-results-release-20-May-2020.pdf>

<sup>16</sup> There were no Stop and Search cases with missing data on sex, but 454 cases with missing data on age.

<sup>17</sup> There were 69 FPN cases with missing information on ethnicity.

backgrounds, and the remaining 1.4% were from multiple, mixed or other ethnic groups. The most recent population estimates suggest that 94.3% of the Scottish population is White, which suggests there was a slightly higher than expected number of FPNs issued to people from non-White backgrounds. Again, it is worth stressing that the number of people from BAME backgrounds who were subject to enforcement was very small (around 0.1% of the total BAME population in Scotland). Therefore, these disparities between groups reflect very small absolute differences.

Comparison was made to the ethnic profile of those who were stopped and searched during the equivalent period in 2019.<sup>18</sup> Figure 5 shows that the vast majority (95.4%) of searches in Scotland also involved someone from a White background. While this represents a very small difference in percentage terms, the proportion of searches involving White people was significantly higher than for FPNs. The main ethnic difference between FPNs and searches was in relation to the Asian population, which accounted for 4.4% of all FPNs compared to 1.8% of all searches. There was no difference in relation to any of the other ethnic groups.

These findings indicate that the ethnic profile of those people who were ticketed for flouting the Coronavirus Regulations was broadly similar to the population who are typically stopped and searched, although there were some differences in relation to the Asian population. Analysis of the age profile of those who were issued with an FPN from the Asian community found that they were significantly younger than those from White backgrounds (28.6 compared to 31.8 years, respectively), which may have explained the slightly higher than expected level of police contact. However, the same difference was found in the stop and search data, so it does not appear that age was the only factor driving this difference in relation to the issue of FPNs.

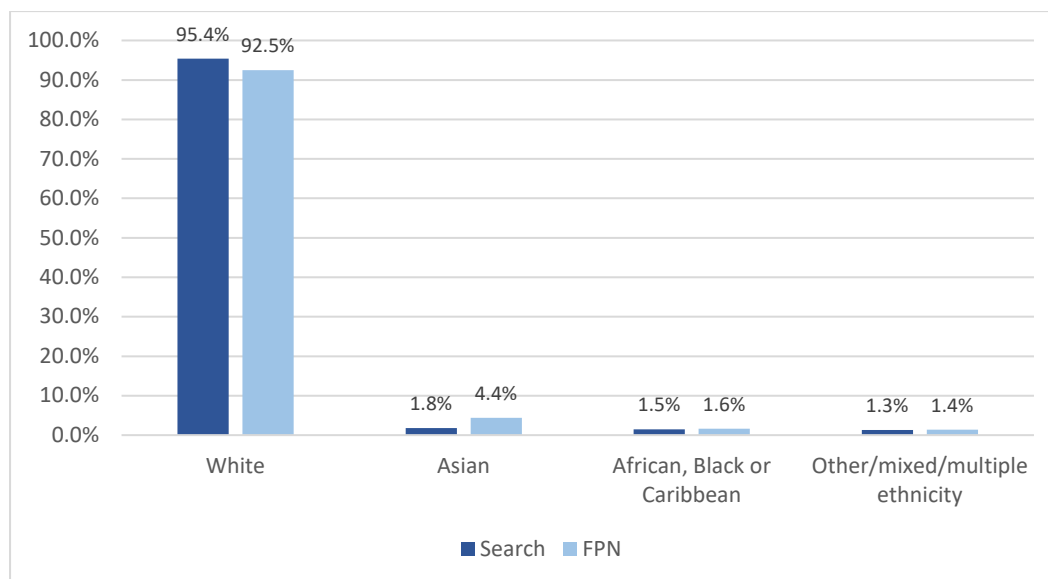


Figure 5: Ethnic profile of FPNs (27<sup>th</sup> March to 31<sup>st</sup> May 2020) and stop searches (1<sup>st</sup> April to 31<sup>st</sup> May 2019) in Scotland

As noted earlier, police use of stop and search is a very different activity to issuing FPNs for non-adherence to the Regulations; therefore, it is important to be cautious about drawing any conclusions from these comparison data. Overall, they do suggest that there are strong

<sup>18</sup> There were 150 Stop and Search cases with missing information on ethnicity.

similarities in the general profile of those who are stopped and searched and those who were issued with FPNs during the initial stages of lockdown; however, much more information would be required to fully understand whether there was any disproportionality in policing during the pandemic.

### 5.3 Country of birth of FPN recipients

Where country of birth was recorded, three quarters (84.7%) of FPNs were issued to someone born in Scotland and a further 5.6% were issued to someone born in another part of the British Isles (mainly England).<sup>19</sup> This means that 9.7% of FPNs were issued to a non-British national, which compares with 7.2% of the population.<sup>20</sup> Most of the remaining encounters when an FPN was issued (4.7%) involved people born in Eastern Europe (primarily Poland), while 3.9% were born in Africa or Asia. Compared to the non-British population of Scotland, there was a slight over-representation of people born in the EU2 countries (Bulgaria and Romania) and Asia; however, absolute numbers were very small and this comparison does not take account of the fact that individuals may have been counted more than once in the FPN data.

Despite the fact that 15.3% of all FPNs were issued to people who were not born in Scotland, in 98.8% of all cases the individual's home address was in Scotland.<sup>21</sup> Indeed, only 59 FPNs in total were issued to people who did not have a Scottish home address. So, there is little evidence that enforcement was driven to any extent by cross-border offending during lockdown, at least in terms of those who were issued with an FPN. Country of birth is not published in the stop and search data, so no comparison could be made on this characteristic.

## 6. Criminal history of Fixed Penalty Notice recipients

Interviews with police officers conducted by HMICS found that, while most people were adhering to the Regulations and public guidance issued during lockdown, a very small proportion of the population had created a disproportionate amount of concern from a policing point of view.<sup>22</sup> 'Officers interviewed said challenges emerged with some members of the public who were living chaotic lifestyles and seemed intent on non-compliance, regardless of attempts to utilise all strands of the 4 Es approach. On these occasions, this appeared to be due to an indifferent attitude to the overall public health objectives, the legislation and consequences for breaching same, therefore enforcement was not seen as an effective deterrent' (Para 21).

Where possible, Police Scotland extracted data from the criminal history system and manually added this to the FPN ticket database. This meant it was possible to examine what proportion of tickets were issued to those who had already been known to the police at some point and how old these individuals were when they first came to the attention of the police.<sup>23</sup> Less than one in five (18.0%) FPNs were issued to someone who was not known to the police prior to

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<sup>19</sup> There were 480 FPN cases with missing information on country of birth.

<sup>20</sup> National Records of Scotland (2020) Population by Country of Birth and Nationality, 2019. <https://www.nrscotland.gov.uk/files//statistics/population-estimates/pop-cob-nat-19/pop-cob-nat-19-report.pdf>

<sup>21</sup> There were no FPN cases with missing information on country of residence.

<sup>22</sup> HMICS (2020) Independent Advisory Group Report on Interviews with Police Scotland Officers and Staff. <https://www.hmics.scot/news/independent-advisory-group-report-interviews-police-scotland-officers-and-staff>

<sup>23</sup> There were 1,133 cases (26.2%) where information on prior police history was not recorded.

2020. In the majority of instances where a ticket was issued, therefore, it involved a person who had already come to the attention of Police Scotland at some time in the past. Figure 6 shows that 18.3% of people had first come to the attention of the police within the last five years; however, two thirds of FPNs were issued to people who first came to the attention of the police 6 years ago or more. It is particularly noticeable that almost a quarter (24.5%) of all FPNs were issued to an offender who was first known to the police over 20 years ago. Unfortunately, it was not possible to examine the frequency with which individuals had had police contact over the years or their most recent contact prior to the issue of the FPN for non-adherence with the Regulations.

The average age of first police contact amongst all FPN recipients was 19.3 years; although it was higher for women (21.6 years) than for men (18.6 years). Further analysis was conducted to explore the relationship between the age of men and women who had been issued with an FPN for breaching the Regulations and how old they were when they first had contact with the police. . Figure 7 shows that the younger a person was at the time of being issued an FPN, the younger they were likely to have been when they first had police contact. This was true for both men and women. Interestingly, those who were aged over 60 when issued with an FPN were likely to have been much older on average when they first came to the attention of the police, especially women. However, numbers are too small to support more detailed analysis.

Overall, these findings show that in the majority of cases where an FPN was issued it involved someone who had already been known at least once to the police in the past. Most people (especially men) were likely to have been first known to the police under the age of 20; however, the older the person was who had breached the Coronavirus Regulations, they older they were likely to have been at first police contact. Without further information on the details of people’s individual police record, it is impossible to draw conclusions about how this may have impacted on people’s behaviour during lockdown or whether the police were acting in a fair and proportionate way towards these individuals.

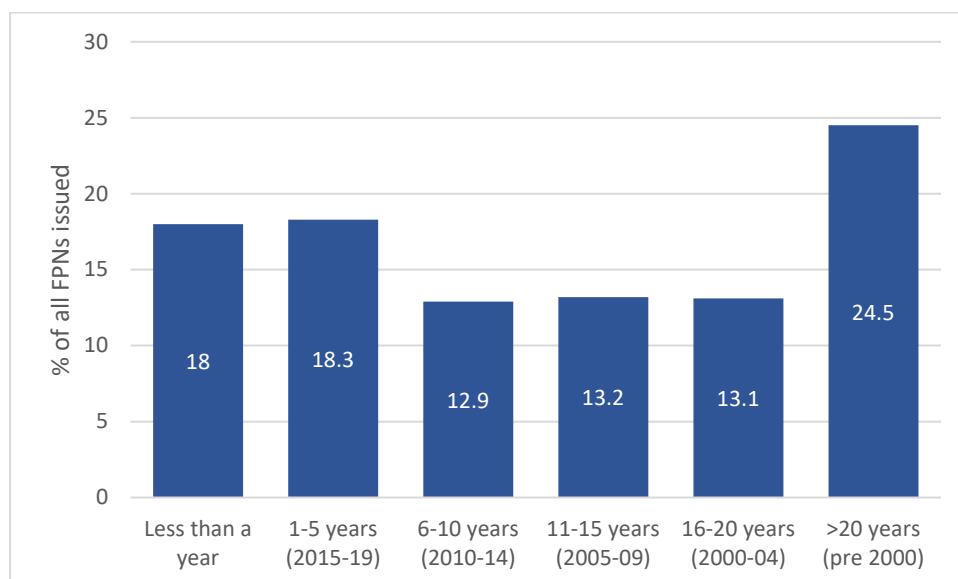


Figure 6: Police history of offenders for all FPNs issued in Scotland, 27<sup>th</sup> March to 31<sup>st</sup> May 2020 (n=3,192)



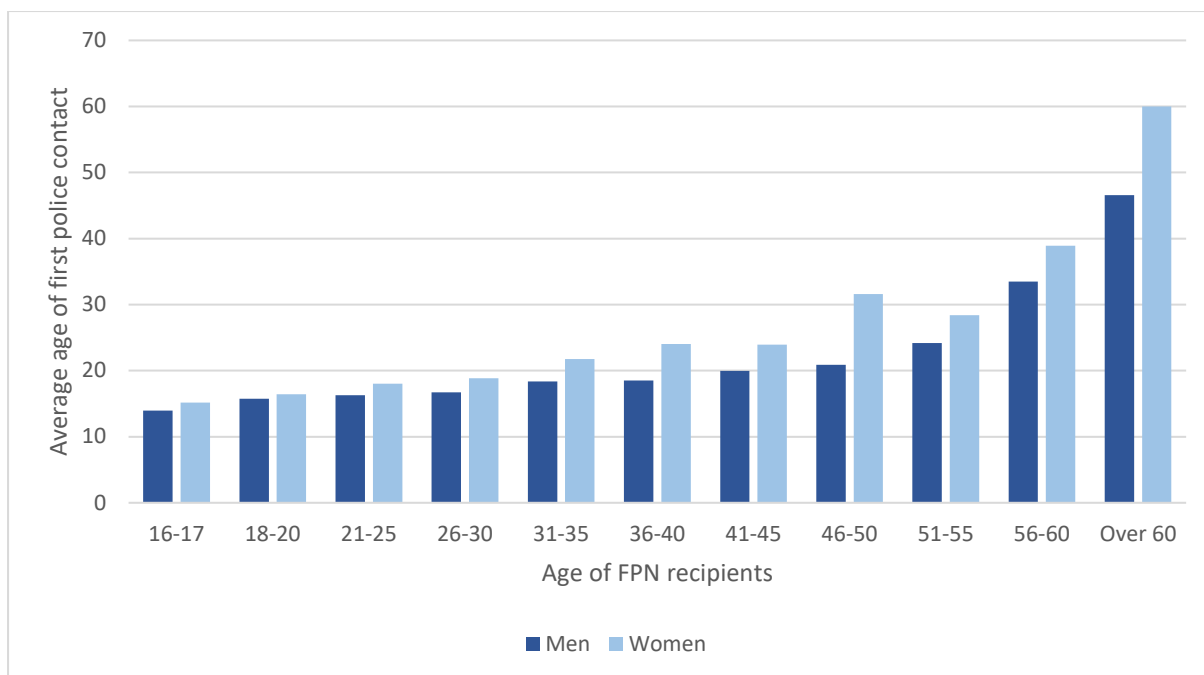


Figure 7: Average age of first police contact by age and sex of all FPN recipients in Scotland, 27<sup>th</sup> March to 31<sup>st</sup> May 2020 (n=3,190)

## 7. Timing and locus of Fixed Penalty Notices issued

As noted in Section 3, the number of FPNs issued grew sharply over the first two weeks following the introduction of the Coronavirus Regulations, peaking around 10-12<sup>th</sup> April, before declining gradually. There were some marked spikes in activity, which coincided mainly with weekends, holidays and periods of good weather; but the general pattern was one of decline for the remainder of the initial lockdown phase. Over the period from 27<sup>th</sup> March to 31<sup>st</sup> April, 70.3% of all FPNs were issued as a result of breaches to the Regulations that occurred in public places (e.g. lack of social distancing in public areas and parks or unnecessary travel to beaches and beauty spots), while the rest involved breaching the Regulations through indoor activity (e.g. social gatherings of multiple households or parties in people's houses).<sup>24</sup>

Figure 8 shows the overall pattern of FPNs issued by locus to the end of April. Generally speaking, the patterns were fairly similar, with spikes in activity as a result of breaches in public places being mirrored by spikes in activity indoors (the pattern for indoors shows more fluctuation as the numbers are smaller). This suggests that – although the locus was different – the drivers underpinning the increase in policing activity were likely to be the same. During the first week of the powers coming into being, only around a fifth of the FPNs issued were a result of breaches of the Regulations that occurred indoors. However, this increased to around a third of all FPNs in the second week and remained fairly stable over time. Again, this suggests that the factors that led to increases and decreases in police use of FPNs over time were as likely to influence breaches of the Regulations in public places as those occurring indoors.

<sup>24</sup> There were 159 (5.8%) FPN cases with missing information about the locus of the incident between 27<sup>th</sup> March and 30<sup>th</sup> April. There were 1,195 (75.3%) FPN cases with missing information about the locus between 1<sup>st</sup> and 31<sup>st</sup> May, therefore data on the locus of FPNs for this period cannot reliably be presented in this report.

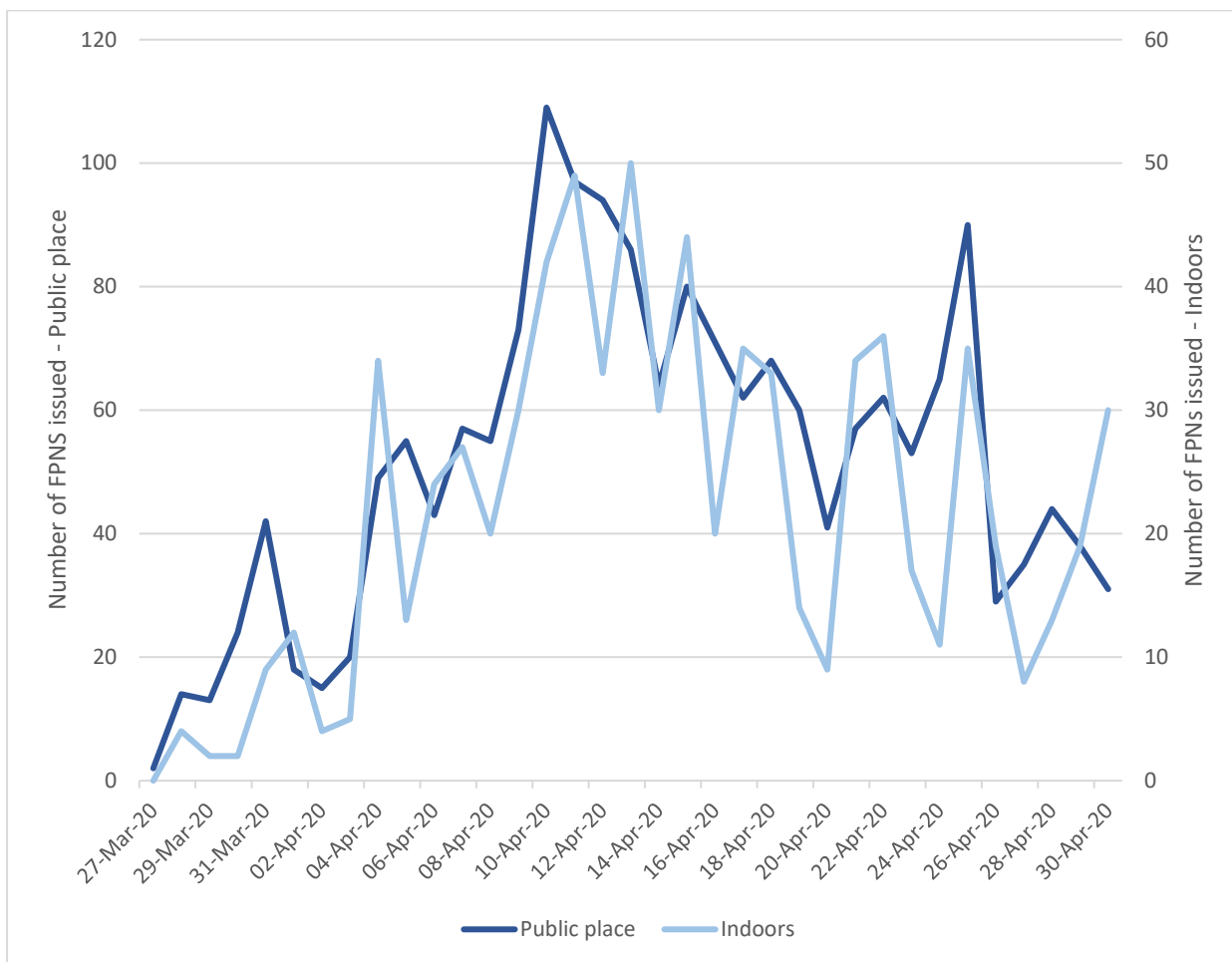


Figure 8: Number of FPNS issued in Scotland by locus type, 27<sup>th</sup> March to 30<sup>th</sup> April (n=2,583)

There was considerable variation in the times of the day when police enforcement was used, although activity showed a pattern which would be fairly typical of incident-related policing activity more generally (i.e. most activity in the evening and early morning, with far less activity during late morning and early afternoon). Figure 9 shows the proportion of all FPNS issued for incidents occurring indoors or outdoors by time of day.<sup>25</sup> The pattern was fairly similar for FPNS issued in both types of locus from midnight to noon; however, there was considerable divergence after that. FPNS issued for breaches of the Regulations occurring in public places rose steeply in the early afternoon, peaking around 5pm, and then declining again. Whereas FPNS issued for breaches occurring indoors rose more steadily through the early afternoon, then increased sharply from around 4pm and peaked between 11pm and midnight. Clearly, although the drivers of non-compliance may have been similar, the pattern in terms of policing demand and use of enforcement differed substantially depending on where incidents took place and the type of circumstances in which they occurred.

<sup>25</sup> Note that this analysis includes all FPN cases where locus was recorded (n=2,974 or 68.7% of the total) for the period from 27<sup>th</sup> March to 31<sup>st</sup> May.

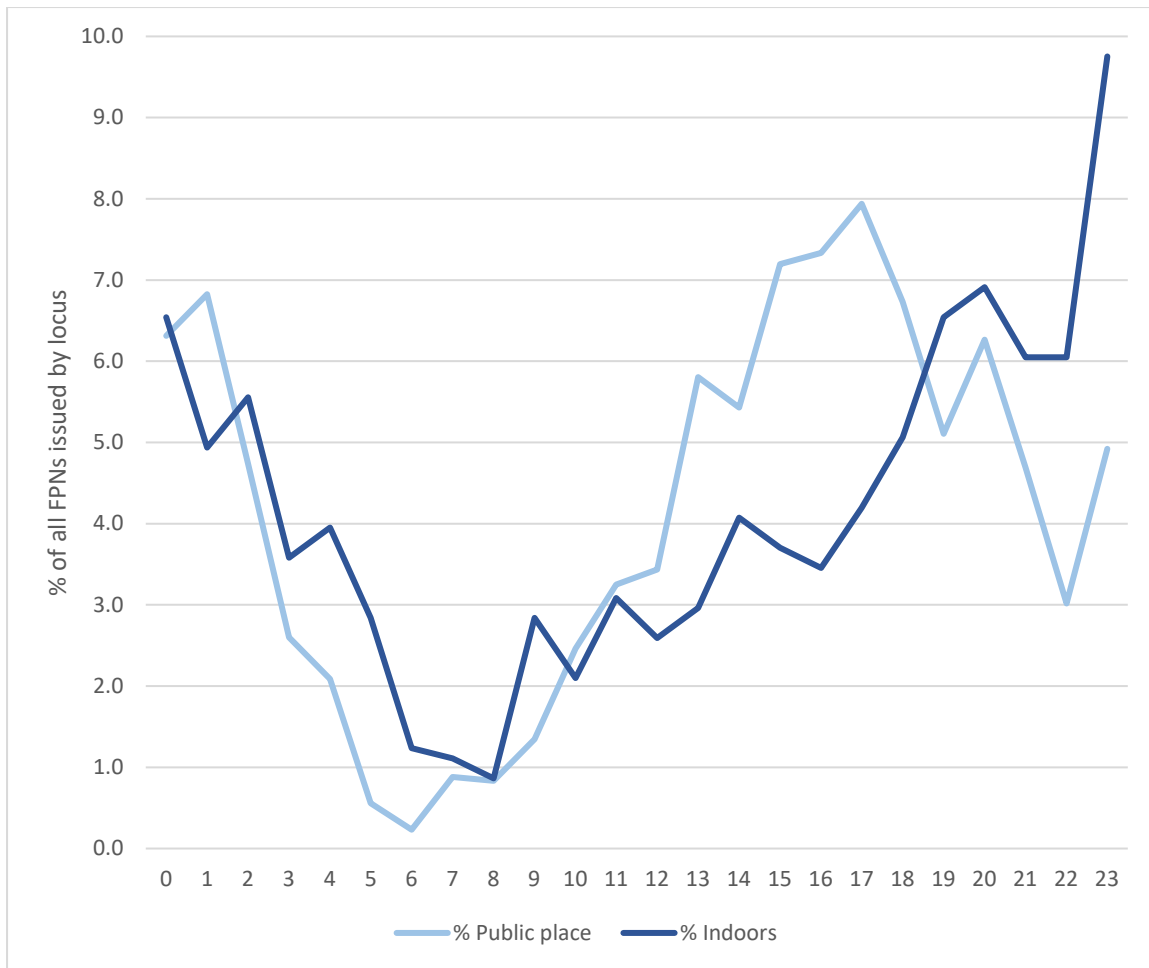


Figure 9: Time of the day that FPNs were issued in Scotland by locus type, 27<sup>th</sup> March to 31<sup>st</sup> May (n=2,964)

## 8. Geographical profile of Fixed Penalty Notices issued

### 8.1 Use of FPNs by Division

Exactly 70.0% of all FPNs issued during the initial lockdown phase occurred as a result of breaches in Police Scotland’s West Command Area, while 18.9% occurred in the East and 11.1% in the North. These proportions are broadly consistent with the pattern of Coronavirus-related policing activity more generally, as reported in McVie et al (2020).<sup>26</sup> The bars in Figure 10 show the number of FPNs issued by each Police Division within the three Command Areas. By far the largest number of FPNs was issued by Greater Glasgow Division (30.0% of the total), which was substantially higher than all other Divisions. The number of FPNs issued in other West Divisions was also higher than that issued by Divisions in the East and North, including Lanarkshire (12.2%), Argyll and West Dunbartonshire (10.3%), and Renfrewshire and Inverclyde (9.9%). The City of Edinburgh accounted for only 7.4% of all FPNs, while the North East Division (which includes the City of Aberdeen) accounted for only 3.3%.

<sup>26</sup> See Section 3.2.1 of McVie, Morales and Pantoja (2020) Interim report on data for the Independent Advisory Group on Police Use of Temporary Powers related to the Coronavirus Crisis. <https://www.understanding-inequalities.ac.uk/police-use-of-new-covid-19-powers-admin-data-analysis>

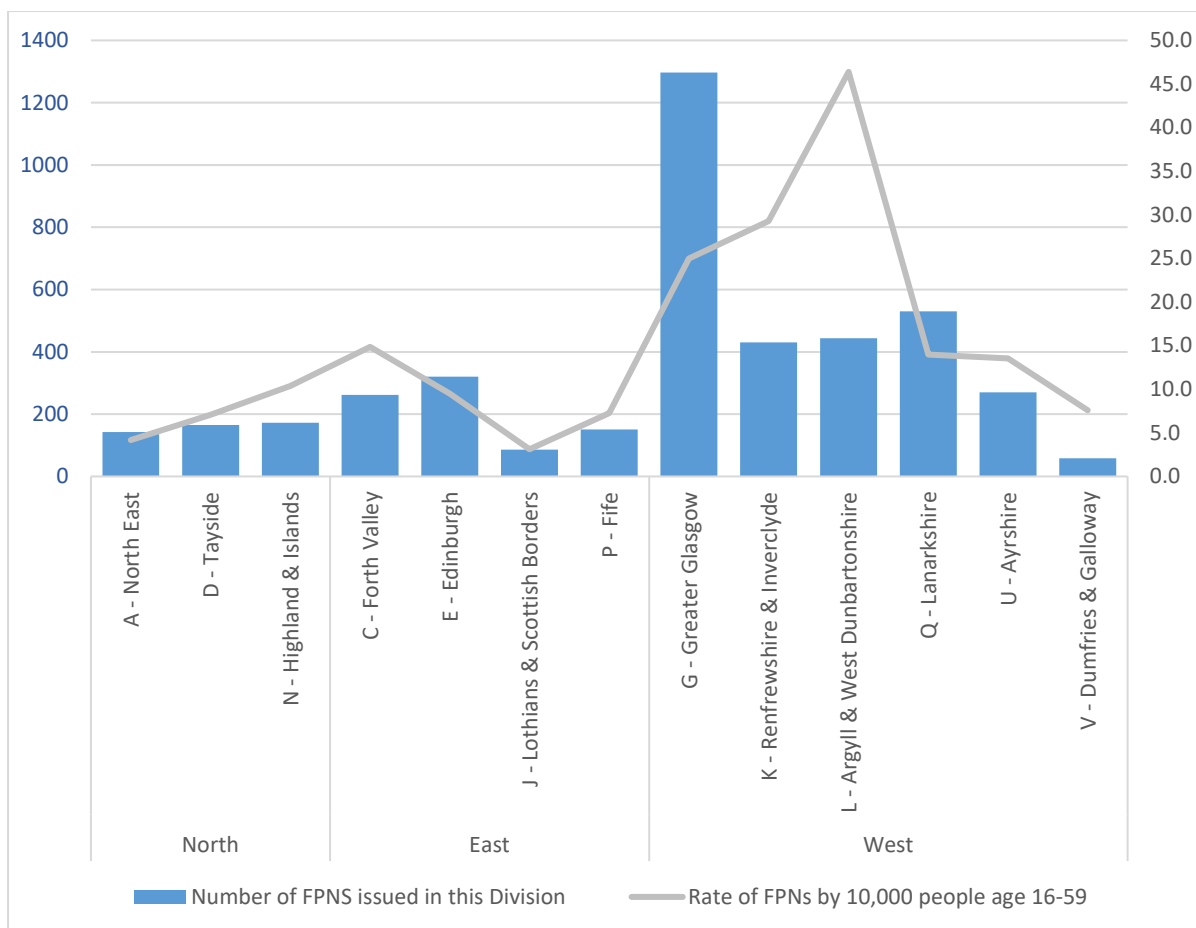


Figure 10: Number of FPNS and rate per 10,000 population by Scottish police Division and Command Area, 27<sup>th</sup> March to 31<sup>st</sup> May 2020 (n=4,328)

It is important to take account of population size in comparing the amount of enforcement during lockdown, as some Divisions have many more people living in them than others. The line in Figure 10 shows the profile of FPNS issued across Divisions as a rate per 10,000 of the population aged between 16 and 59.<sup>27</sup> If the same proportion of people living in each Division was subject to enforcement, this line would be flat. The variation in the line shows that there were considerable differences between Divisions in the extent of enforcement activity, even taking population into account.

While the total number of FPNS issued was highest in Greater Glasgow, the rate of activity taking population into account was highest in Argyll and West Dunbartonshire and second highest in Renfrewshire and Inverclyde. The rate of enforcement was still high in Greater Glasgow compared to other Divisions, but it was only around half the level for that of Argyll and West Dunbartonshire and was slightly lower than Renfrewshire and Inverclyde. The rate of FPNS issued for Forth Valley was also higher than other Divisions when population size was taken into account. Taking population size into account, therefore, shows a different picture of enforcement activity. Nevertheless, like the total numbers, the rate of enforcement was typically higher in the West of Scotland than the East or North.

<sup>27</sup> Rate per 10,000 people age 16-59 is used since FPNS could not be issued to anyone under the age of 16, and 98.5% of all FPNS were issued to people within this age range.

## 8.2 Offence-based and Offender-based FPN rates within Division

In their analysis of the FPNs issued for breaches of the Coronavirus Regulations in England and Wales over broadly the same period of time, Currenti and Flatley (2020) were critical of relying on the population base to calculate rates of policing activity.<sup>28</sup> They note that disparities in the rate of FPNs issued across Police Force Areas (PFAs) based on the resident population may have been influenced by people travelling from the PFA they live in to another, particularly in the case of PFAs with more scenic areas or tourist hotspots. The same problem occurred within Scotland, with 19.5% of all FPNs being issued to people who were not resident in the Division in which they received the FPN.

This did vary substantially by Division, as shown in Figure 11. Most notably, more than two in every five FPNs issued in Argyll and West Dunbartonshire were to people that were not resident in this Division; while almost two in five FPNs issued in Edinburgh went to people living outside the city. Forth Valley, Highland and Islands, Renfrewshire and Inverclyde, and Dumfries and Galloway Divisions also had above average numbers of FPNs issued to non-residents. This is consistent with media reports of members of the public travelling to exercise and relax in popular tourist destinations, especially on hot and sunny days, including Loch Lomond, Portobello Beach and the Meadows in Edinburgh, the Trossachs National Park and popular hillwalking sites in the far North of Scotland. Some parts of Scotland, such as the North East and Fife, issued FPNs to a very small proportion of people from outwith the Divisional area; although, the number of FPNs issued within these Divisions was very small in any case.

In effect, the rate of FPNs by Division shown by the line in Figure 10 is an *offence-based rate* as it compares enforcement activity in terms of where the breach of the Regulations took place; however, it is also important to examine the *offender-based rate*. Applying Currenti and Flatley's methodology, this involves calculating the rate based on the Division in which the person who breached the Regulations was living, rather than where they committed their offence. This is useful as it tells us whether people from particular parts of Scotland were more or less likely to receive FPNs for non-compliance with the Coronavirus Regulations. It is important to note that this is not necessarily a good comparator of non-compliance across the population as a whole within these areas, as this could also be dependent on differential policing practice. Nevertheless, the fact that policing in Scotland was governed by a single strategic approach to enforcing the lockdown Regulations is likely to have minimised the probability of a differential policing effect.

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<sup>28</sup> Currenti, R. and Flatley, J. (2020) Policing the pandemic: Detailed analysis on police enforcement of the Public Health Regulations and an assessment on disproportionality across ethnic groups. National Police Chiefs' Council. <https://www.northyorkshire-pfcc.gov.uk/content/uploads/2020/07/Policing-the-Pandemic-NPCC.pdf>

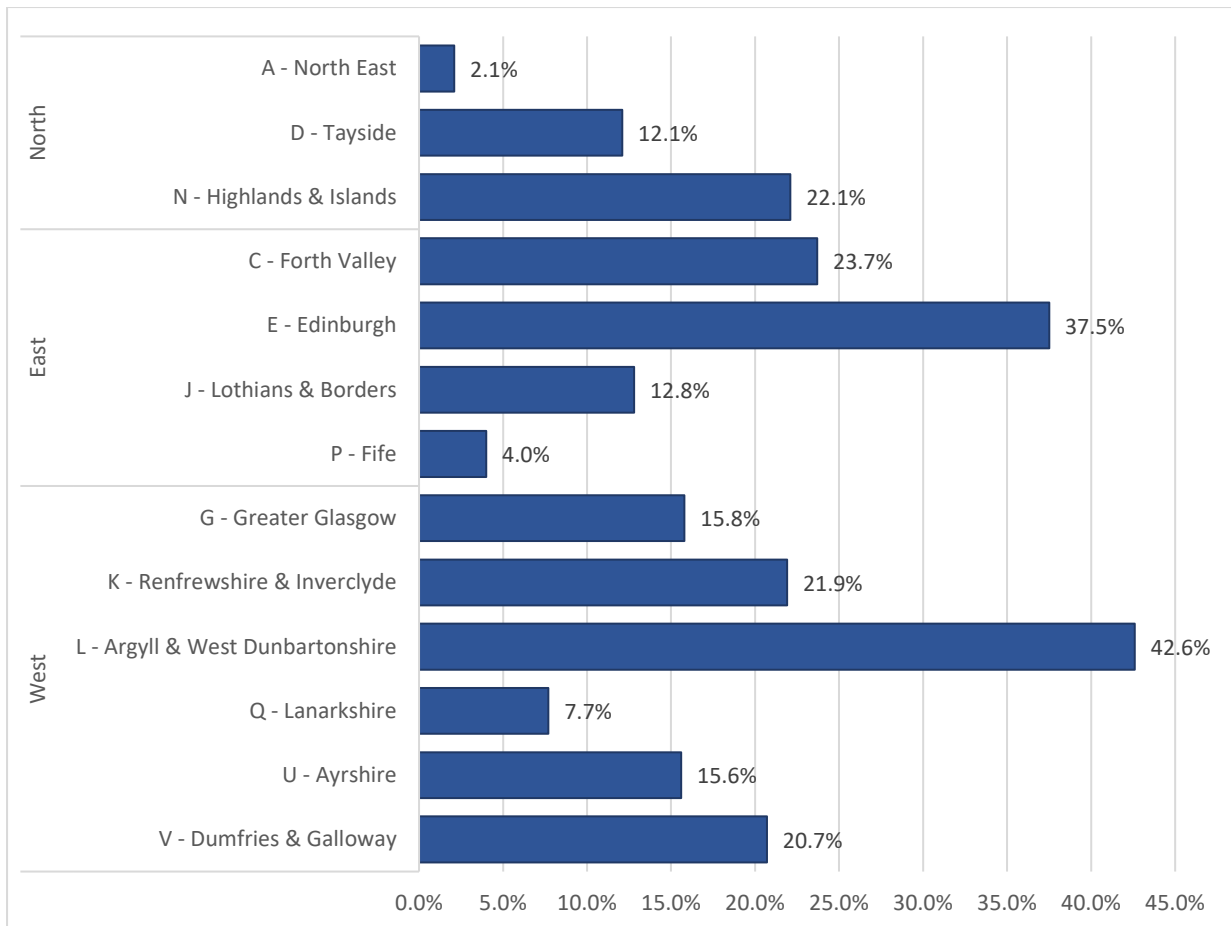


Figure 11: Percentage of FPNs issued to non-residents by Police Scotland Division and Command Area, 27<sup>th</sup> March to 31<sup>st</sup> May 2020 (n=4,328)

Figure 12 compares the offence-based rate (i.e. the number of FPNs issued in each Division as a rate per 10,000 people living in that Division) with the offender-based rate (i.e. the number of people living in each Division who were issued an FPN as a rate per 10,000 people living in that Division).<sup>29</sup>

For some Divisions, such as the North East, Tayside, Fife, Greater Glasgow, Ayrshire, and Dumfries and Galloway, the difference between the two was fairly small. This suggests that people travelling in from other Divisions had a minimal effect on the enforcement activity in these Divisions. For other Divisions, the offence-based rate was larger than the offender-based rate, which suggests that the rate of enforcement was inflated by people travelling in from another Division. This was especially the case for Argyll and West Dunbartonshire, but also true for Renfrewshire and Inverclyde, Forth Valley, Edinburgh and the Highlands and Islands. For a few Divisions, the offender-based rate was higher than the offence-based rate, which indicates that people from that Division were more likely to be committing offences by travelling into other Division. This included people living in the Lothians and Scottish Borders, and Lanarkshire.

<sup>29</sup> There were 281 FPN cases with missing information on the home address of the offender, although information on the Division could be imputed for 180 of these.

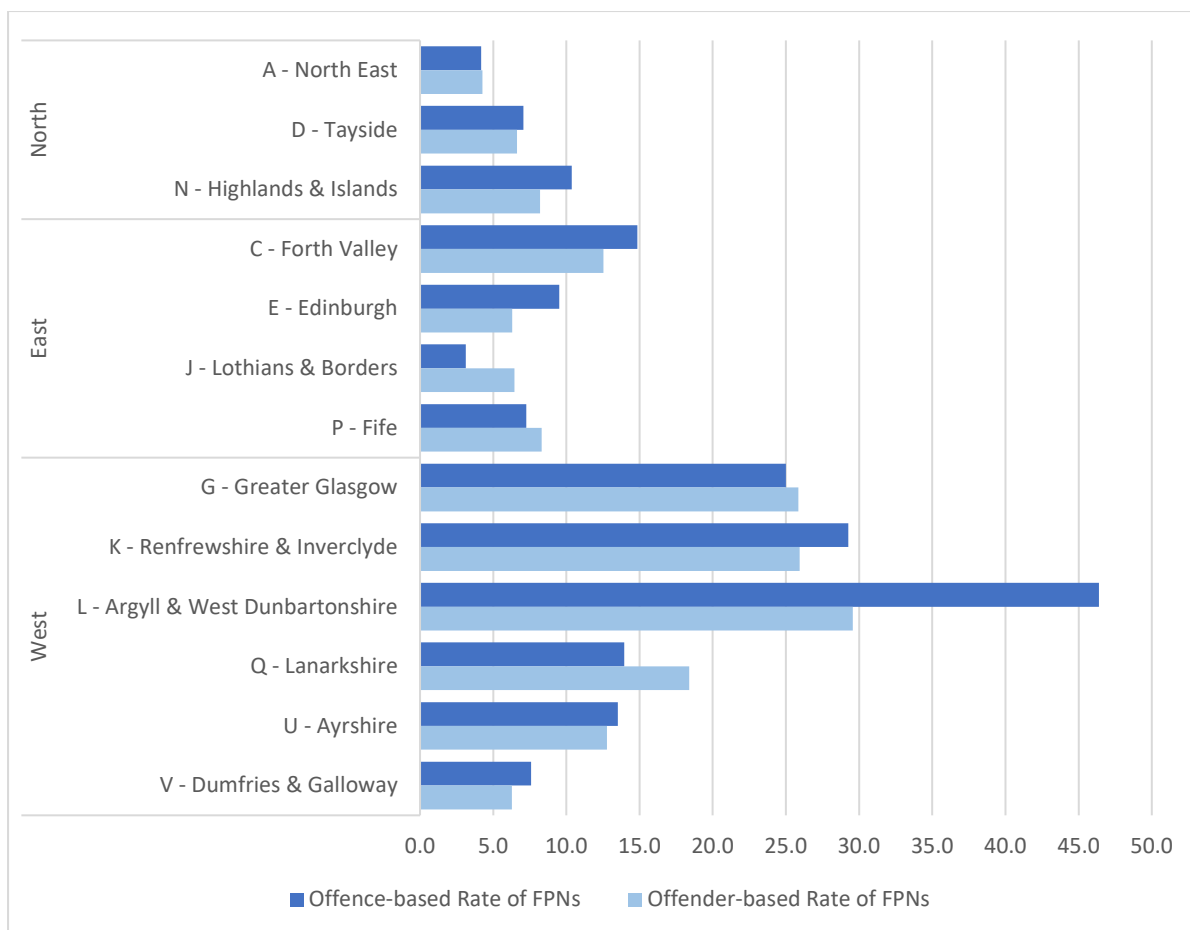


Figure 12: Offence and offender-based rate of FPNs issued per 10,000 people by Scottish police Division and Command Area, 27<sup>th</sup> March to 31<sup>st</sup> May 2020 (n=4,227)

### 8.3 Use of FPNs for Cross-Divisional Travel

The discrepancy between the offence rate and the offender rate was investigated in more detail, in order to better understand where people in receipt of FPNs had journeyed to and from.

Figure 13 shows the percentage of all FPNs issued in each Division to people living in another Division (note that the percentage of offenders who offended in the Division they were living in is not shown). As noted in Figure 11, above, there was a substantial difference in the extent to which people issued with FPNs had travelled outwith the boundary of their policing Division. Nevertheless, some clear patterns emerge. People resident in the Northern Divisions (coloured blue) were rarely issued with FPNs in other Divisions. A very small proportion (2.8%) of FPNs issued in the Highlands and Islands were issued to people from Tayside, but there was very little evidence of people receiving FPNs as a result of travelling outside of the North. It was more common that people were travelling into the Northern Divisions from elsewhere, primarily from Fife (in the case of Tayside) and from Western Divisions (in the case of Highland and Islands).

People living Eastern Divisions (coloured green) were most likely to be issued with an FPN in another Eastern Division, especially Edinburgh and Forth Valley, although there was some evidence of travel to the North and West. It is notable from Figure 13 that 29.0% of all FPNs issued in Edinburgh involved people resident in the Lothian and Scottish Borders (its neighbouring Local Authorities).

The most common occurrence of an FPN being issued to someone from another Division involved people from the West of Scotland. In the majority of cases, this involved people from one Western Division being issued with an FPN in a neighbouring Western Division. However, a substantial proportion of FPNs were issued in Forth Valley and, to a lesser extent, Highland and the Scottish Islands, the Lothians and Scottish Borders, Edinburgh and Tayside. People who were resident in Greater Glasgow accounted for 24.6% of all FPNs issued in Argyll and West Dunbartonshire and 15.4% of those issued in Renfrewshire and Inverclyde, while 10.2% of all those receiving an FPN in Greater Glasgow were from Lanarkshire.

The profile of FPNs presented in Figure 13 demonstrates that a significant amount of enforcement was driven by people travelling outside of their local area. During lockdown, guidance was issued by the Scottish Government for people to stay within a 5 mile radius of the home address in order to prevent the spread of the Coronavirus. While the findings presented here cannot be used to estimate the proportion of people who ignored this guidance, it is clear that a substantial proportion of police enforcement – especially in certain Divisions – was focused on those who disregarded this aspect of the guidance.

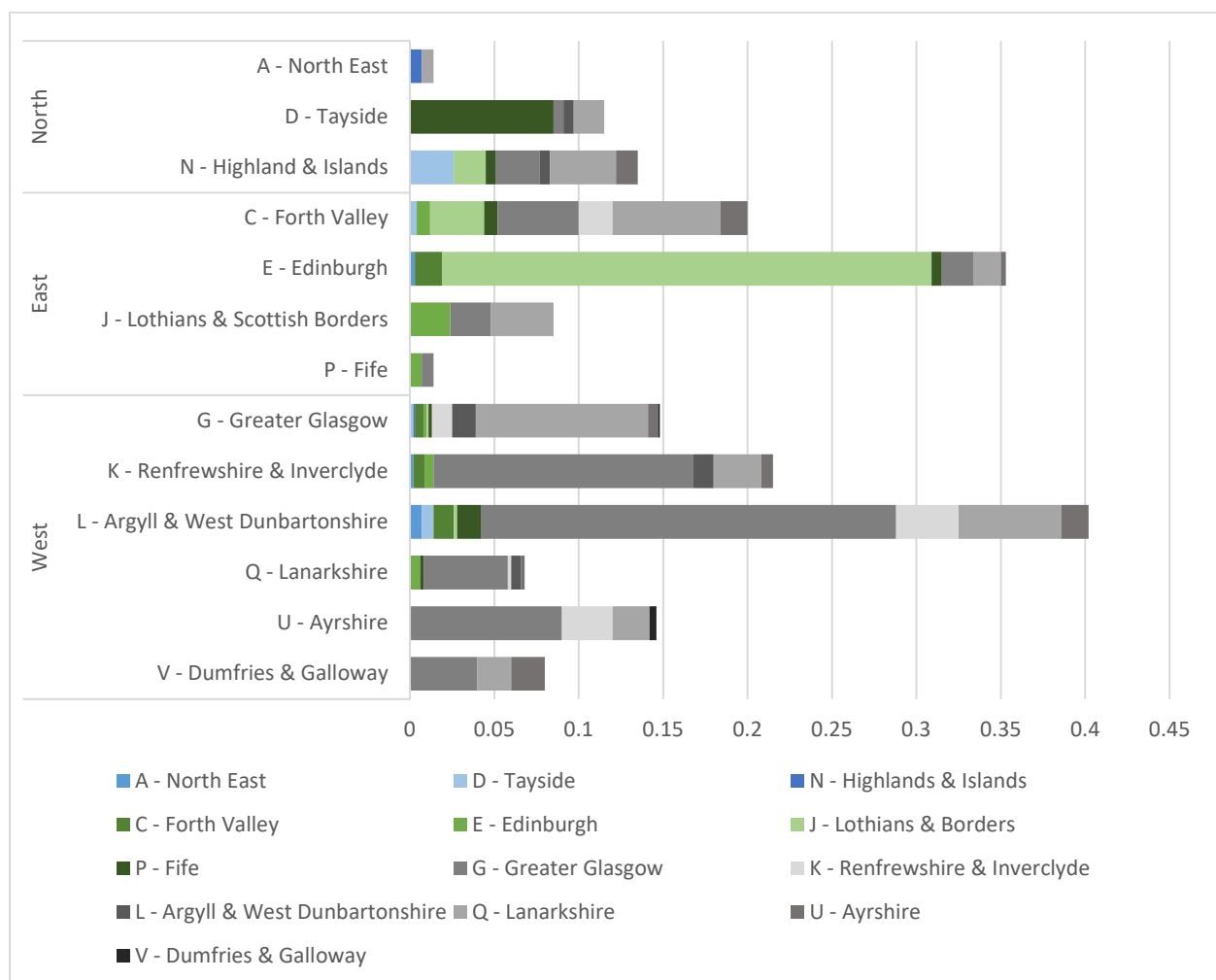


Figure 13: Percentage of all FPNs issued within a Division to people living in another Division, 27<sup>th</sup> March to 31<sup>st</sup> May 2020 (n=4,227)



It is not possible to estimate exactly how far people travelled between Divisions; however, Divisions are quite large geographical areas and so it is possible that some people were travelling substantial distances, and certainly more than 5 miles. While in many cases people were travelling to a neighbouring Division, there was also evidence of FPNs being issued to people who had travelled much further afield. Given the requirements of the government advice, such policing activity would be considered proportionate and appropriate.

#### 8.4 Temporal pattern of FPNs within Divisions

Figure 14 shows the trend in the daily number of FPNs issued from 27<sup>th</sup> March to 31<sup>st</sup> May for each of the thirteen Scottish police Divisions. There was considerable variation across the Divisions and it is evident that there is no clear trend in the use of enforcement over time, either across the different local policing areas or within the three Command Areas. Some Divisions had one or two distinct spikes in the use of enforcement but relatively little other activity (e.g. the North East, Forth Valley, Edinburgh, Lanarkshire and Dumfries and Galloway). A number of Divisions had a higher level of enforcement activity at the start of the period which then tailed off over time (e.g. Tayside, Highland & Islands, Edinburgh, Lothians & Scottish Borders, Lanarkshire and Dumfries & Galloway), while others showed a more variant pattern of issuing FPNs at different time points. Figure 14 suggests that the pattern of enforcement in each Division was unlikely to be the result of 'macro-level' factors (such as political messaging or changes in national guidance), but was more likely to be driven by local factors and challenges faced by officers in their areas.

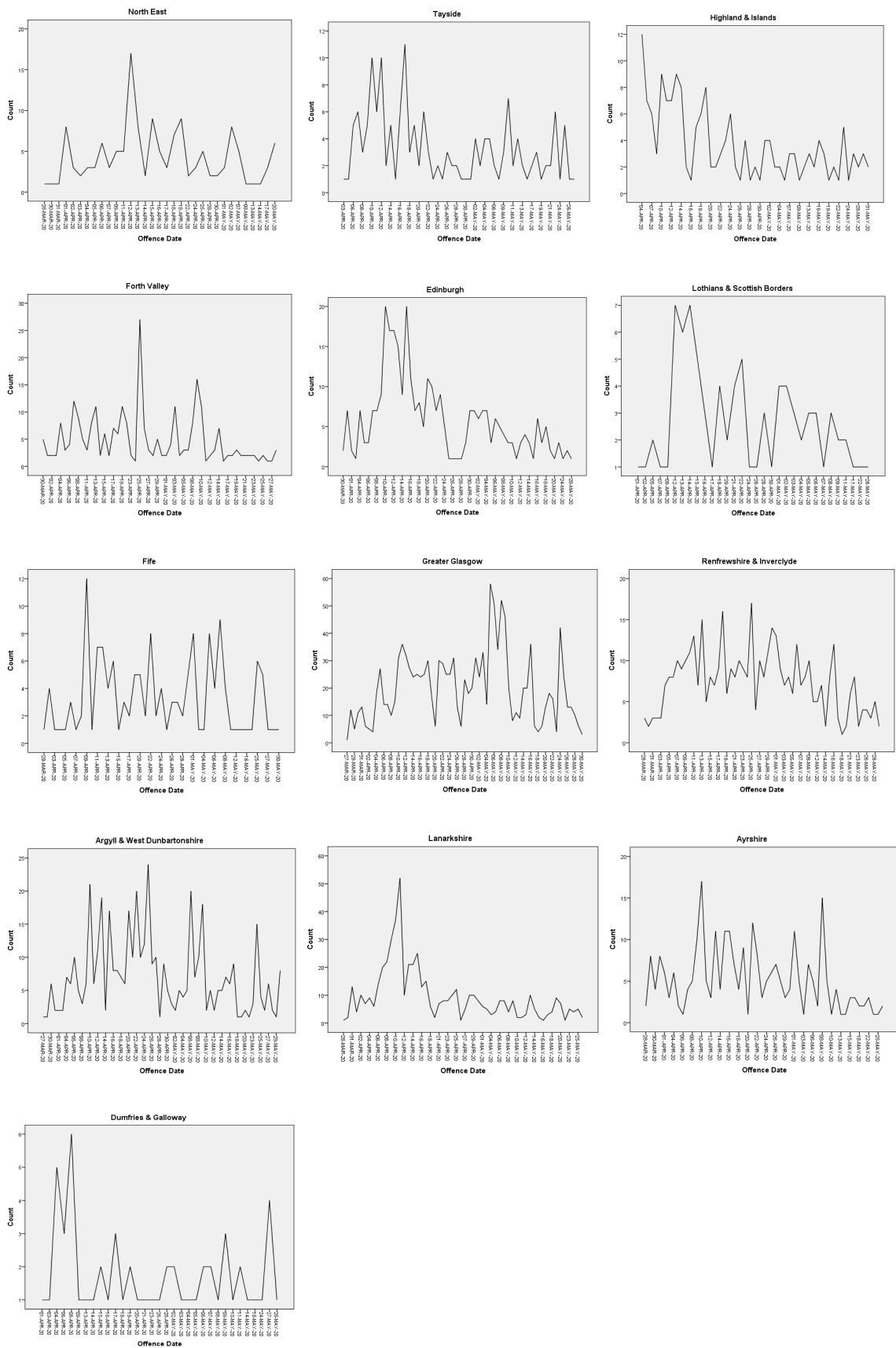


Figure 14: Daily number of FPNs by Division in Scotland, 27th March to 31st May 2020 (n=4,328)

## 8.5 Locus of FPNs issued within Divisions

As noted in Section 7, on average seven out of ten incidents in which an FPN was issued involved a breach of the Coronavirus Regulations that occurred in a public place. However, this varied substantially across the country. Figure 15 shows that the proportion of FPNs issued in public places was much higher than the proportion issued in indoor localities in the majority of Divisions, with the highest proportion being in Tayside, Highlands and Islands and Greater Glasgow. However, some Divisions had a much higher than average proportion of FPNs issued as a result of incidents occurring indoors. Indeed, over half of FPNs issued in Fife Division involved incidents occurring indoors, with relatively high proportions also in the North East, Lanarkshire and Ayrshire. Again, this suggests that local factors and circumstances were strong drivers for the pattern of activity observed across different Scottish police Divisions.

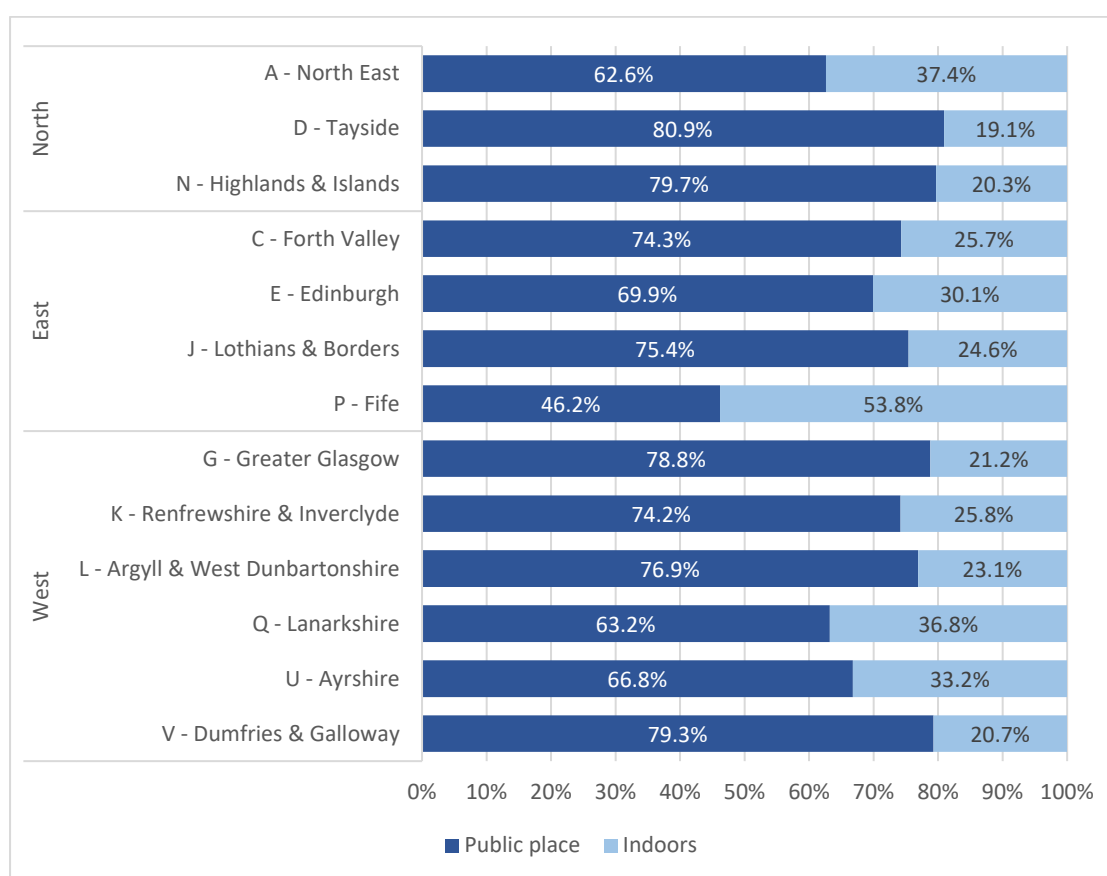


Figure 15: Proportion of FPNs issued in public places or indoors by Division in Scotland, 27th March to 31st May 2020 (n=2,974)

## 9. Deprivation profile of Fixed Penalty Notice recipients

### 9.1 Overall profile of FPNs by SIMD

A key concern of the Scottish and UK Governments during the lockdown was whether the Coronavirus pandemic had impacted more on people living in deprived communities than elsewhere. The level of deprivation in an area is already known to be a factor that impacts on operational policing practice; so, using information about home Datazone of the offender, information from the Scottish Index of Multiple Deprivation was assigned to the majority of

FPNs issued in Scotland.<sup>30</sup> Figure 16 shows that there was a strong and significant relationship between the use of enforcement and the level of deprivation relating to the home addresses of the recipients. Just under a third of all FPNs (where home address of the offender was recorded) were issued to people living in the 10% most deprived communities in Scotland. Whereas, only one in forty of all FPNs were issued to people living in the bottom 10% of the SIMD Decile scale (i.e. the most affluent communities of Scotland). This is a disparity rate of 12 times the level of enforcement amongst those living in most deprived parts of Scotland compared to those living in the least deprived parts.

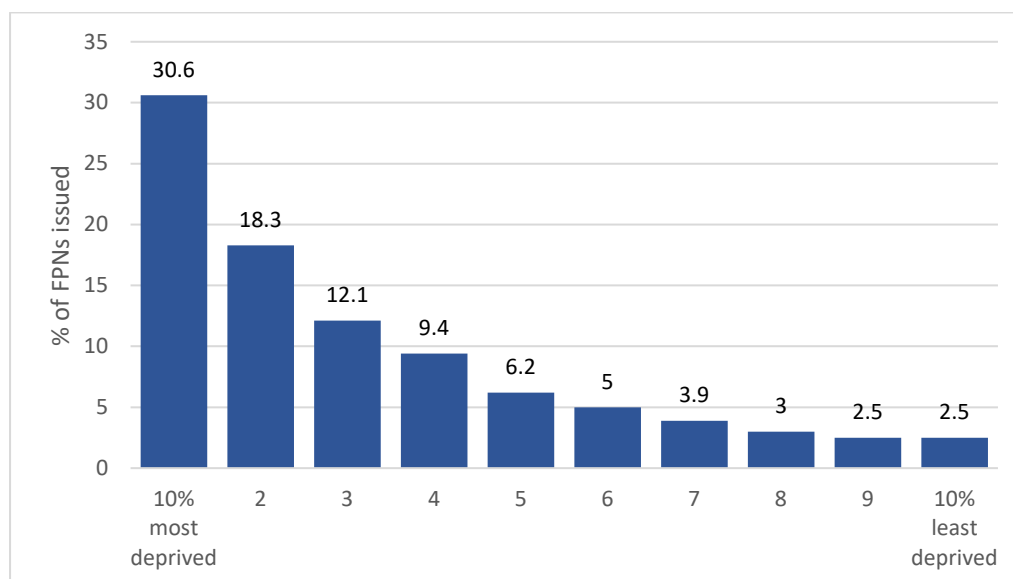


Figure 16: Percentage of all FPNs issued by SIMD Decile in Scotland, 27<sup>th</sup> March to 31<sup>st</sup> May 2020 (n=4,047)

## 9.2 Demographic profile of FPNs by SIMD

It was not possible to determine whether Figure 16 is typical of the pattern of Scottish policing enforcement more generally, as that would require access to population data from the criminal history system. It is also not possible to say whether it reflects the pattern of non-adherence to the Regulations, as there are no data to measure that. For both of these reasons, it is difficult to say whether the use of FPNs during the initial lockdown phase reflects disproportionality in terms of policing practice. Nevertheless, it shows a clear difference between the experience of those living in Scotland's most and least deprived communities in terms of the use of the temporary policing powers. Given that the wider health and economic impacts of the pandemic are expected to have the biggest impact on the UK's poorest communities, any additional deficit caused by the impact of policing enforcement would be likely to have a disproportionate impact on this group of people.

Taking account of the possible intersectional nature of inequality and the impact of the Coronavirus pandemic, the interplay between neighbourhood deprivation and other demographic characteristics was considered in this analysis. From an inequalities perspective, it was important to consider whether women, children and young people, and those from BAME backgrounds, who were living in deprived communities, were more likely than others to have

<sup>30</sup> There were 281 FPN cases with missing information on the home address of the offender, so SIMD information could not be assigned.

been subject to enforcement (potentially due to the detrimental impact of the pandemic on their lives and circumstances). In terms of sex differences, 58.0% of all FPNs issued to women involved someone living in one of the 20% most deprived communities in Scotland compared to 50.6% of FPNs issued to men. This difference was statistically significant. Indeed, the disparity index between FPNs being issued to women in the 20% most deprived compared to the 20% least deprived neighbourhoods was 15 compared to 9 for men. This suggests that deprivation may have played a greater role in the use of enforcement against women than men during lockdown; although, it is impossible to be certain without knowing the underlying behaviour of people from different communities.

Figure 17 shows that a high proportion of FPNs issued across all age groups involved people living in the most deprived communities; however, this was most pronounced for people between the age of 41 and 55. Just under half of all FPNs issued to those under the age of 21 were given to people living in the 20% most deprived communities of Scotland; however, this was not higher than most other age groups. FPNs issued to older people (over the age of 55) were less likely to affect those in the most deprived communities; although, this was still the case for over two in five of all FPNs issued to that age group. This does not suggest any additional use of enforcement during lockdown amongst children and young people from disadvantaged communities compared to other age groups. Indeed, the disparity index between FPNs being issued to those in the 20% most deprived communities compared to the 20% least deprived communities was lowest for those aged 25 or under (at around 8) and highest amongst those aged between 41-55 (at around 20).

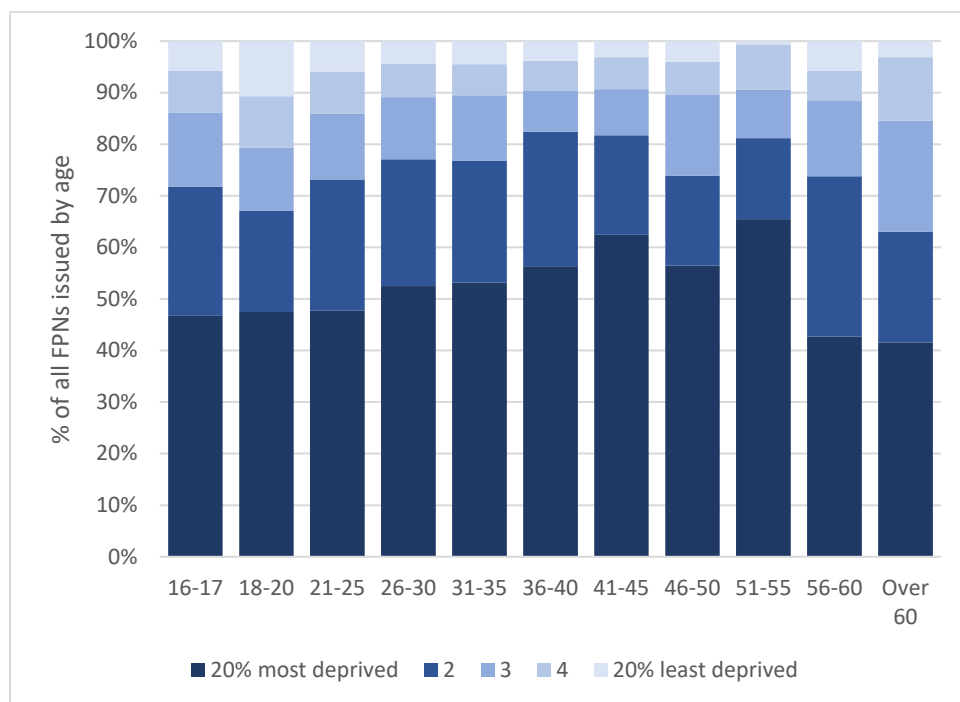


Figure 17: Percentage of all FPNs issued by SIMD Quintile and age group in Scotland, 27<sup>th</sup> March to 31<sup>st</sup> May 2020 (n=4,044)

Conducting the same analysis for different ethnic groups, Figure 17 shows that enforcement during lockdown was most likely to involve people from the most disadvantaged communities of Scotland regardless of their ethnicity. FPNs that were issued to people from White and African,

Black or Caribbean backgrounds were the most likely to involve people living in the 20% most deprived communities. There was no significant difference in the SIMD profile of these two groups; however, the disparity index comparing the proportion of FPNs issued to those in the 20% most deprived communities compared to the least was higher for African, Black or Caribbean backgrounds compared to White people (at 18 versus 11, respectively). FPNs issued to people from Asian backgrounds were significantly less likely to involve people living in the most deprived communities compared to those from White and African, Black or Caribbean backgrounds, and were the most likely to have involved people from the 20% least deprived neighbourhoods. The disparity index for FPNs issued to people from Asian backgrounds was only 2. Those from other ethnic backgrounds (including mixed or multiple groups) also had a significantly less deprived profile compared to those from White and African, Black or Caribbean ethnic groups. Although their profile was not significantly different to that of people from Asian backgrounds, the disparity index for this ethnic group was slightly higher at 4.

Overall, these findings suggest that use of enforcement by Police Scotland during the initial phase of the lockdown did primarily involve people living in the poorest parts of Scotland. This was true regardless of age, sex and ethnicity. However, the disparity indices show that there was an incremental likelihood of receiving an FPN amongst women, those aged 41 to 55 and people from White and African, Black or Caribbean backgrounds who were living in poverty.

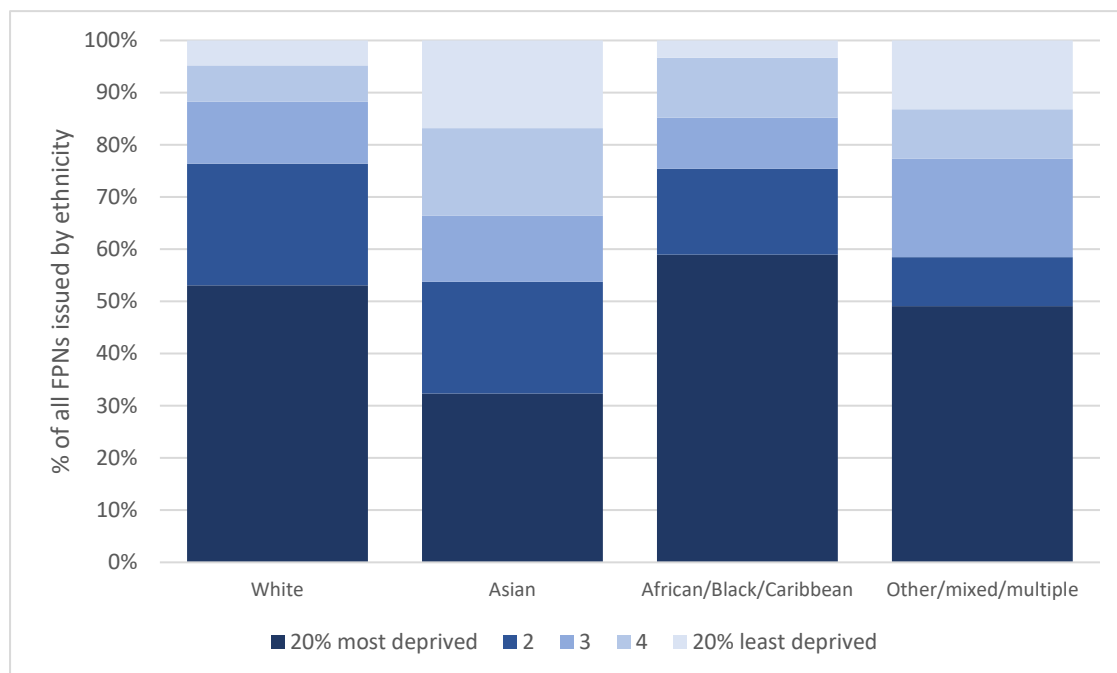


Figure 17: Percentage of all FPNs issued by SIMD Quintile and ethnic group in Scotland, 27<sup>th</sup> March to 31<sup>st</sup> May 2020 (n=3,874)

## 10. Comparison of Fixed Penalty Notices issued in Scotland to England and Wales

A recent report published by the National Police Chiefs' Council (NPCC) reported on the number and rate of FPNs issued under the Coronavirus Regulations for England and Wales.<sup>31</sup> According to this report, there were 17,039 FPNs *processed* across the whole of England and Wales between 27<sup>th</sup> March and 25<sup>th</sup> May 2020. While the total number is higher than Scotland, it represents a rate of 3 FPNs for every 10,000 people in England and 6 for every 10,000 in Wales.<sup>32</sup> In Scotland during the equivalent period, there were 4,215 FPNs *issued*, which represents a rate of 7.8 for every 10,000 people in Scotland. However, the data for Scotland are not comparable to those for England and Wales because the Scottish data includes all FPNs issued even though not all of these would have been processed for payment through the Scottish Courts and Tribunal Service (SCTS); whereas, the figures for England and Wales only include processed tickets. It is estimated that around 10% of the tickets for England and Wales were rescinded, duplicates or not processed for other reasons. If this were the case for Scotland, the rate would reduce to 7.0 per 10,000 people. However, it is impossible to be certain. Comparable data have been requested from the SCTS and will be published at a later date.

Nevertheless, caution must be taken in interpreting any comparisons between these three jurisdictions and drawing conclusions about the rate of Coronavirus-related police enforcement, for two main reasons. First, the absolute number of FPNs issued in all three countries was very small and population sizes are large, so large differences in rates can conceal small differences in numbers. And second, these rates are based on the number of FPNs and not the number of people who received FPNs, so any difference between countries in the issuing of multiple tickets to the same individuals would lead to different rates. .

## 11. Concluding points

This report has provided the first comprehensive analysis of the use of Fixed Penalty Notices (FPNs) by Police Scotland under the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020. The regulations, which were approved by the Scottish Parliament on 27<sup>th</sup> March 2020, gave police officers temporary powers to issue FPNs to anyone age 16 or over or, in extreme circumstances, arrest them for failing to comply. It cannot be overstated that the Regulations placed severe constraints on people's freedom of movement and association during lockdown which meant, therefore, that the police were given powers to issue financial penalties to people who were behaving in ways that, under normal circumstances, would have constituted normal law abiding behaviour. Given the extent of the constraints on our civil liberties and the importance of policing by consent in Scotland, it was wholly appropriate for Police Scotland's Chief Constable to issue a clear message from the start that FPNs would be issued only in those

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<sup>31</sup> Currenti, R. and Flatley, J. (2020) Policing the Pandemic: Detailed analysis on police enforcement of the Public Health Regulations and an assessment on disproportionality across ethnic groups. National Police Chiefs' Council. <https://www.northyorkshire-pfcc.gov.uk/content/uploads/2020/07/Policing-the-Pandemic-NPCC.pdf>

<sup>32</sup> The NPCC report uses Mid Year Population Estimates for 2016 from the Office for National Statistics to calculate the population rates; therefore, equivalent data from the National Records of Scotland were used to calculate the rate for Scotland (although rates based on 2020 population data were almost identical).

cases where breaches of the Regulations were blatant and all other efforts to secure compliance had failed.

During the initial phase of the lockdown, this report found that 4,328 FPNs were issued – meaning that fewer than 0.1% of the Scottish population was impacted overall. After an initial sharp increase in the use of FPNs following the immediate introduction of the Regulations, it is clear that the emphasis on using enforcement to deal with those who were breaking the new laws waned over time; no doubt partly due to the Chief Constable's emphasis on using other means to secure public compliance, but also reflecting the fact that policing was returning to business as usual after restrictions started to gradually ease. While officers could issue up to five tickets to a single individual, the majority of FPNs were for the first level amount of £60 which provides little evidence of repeat breaches of the Regulations, although this will be subject to a further report in due course.

It is interesting to note that the demographic profile of FPNs issued had strong similarities to the profile of those who are stopped and searched, although the circumstances and nature of the policing activities are very different. This does not suggest by any means that police officers were using the types of suspicion that may be used in stop and search encounters to approach those suspected of breaching the Regulations, and caution should be taken before drawing any inferences based on the comparison with stop and search data. However, the comparison is useful in that it helps to substantiate anecdotal reports from officers that the profile of those who were least likely to comply with the Regulations often included those that they would be likely to encounter through routine policing. The fact that more than four out of five individuals were already known to the police on the criminal history system further evidences this point; although, it is not possible to say anything about the nature or frequency of their police interactions.

The fact that more men than women were issued with FPNs is typical of policing enforcement generally; and the age profile of those that were penalised for breaching the Regulations is also typical of the age-crime curve that is well known to criminologists. There is substantial evidence to suggest that younger people were less likely to comply with the Regulations, and to do so at an earlier stage in the lockdown, which would help to explain the age pattern of the FPNs issued. There has also been considerable discussion about the impact of the pandemic on BAME communities, and the report by Currenti and Flatley (2020) found clear evidence of disproportionality in the policing of people from BAME backgrounds. In Scotland, the vast majority of encounters involved White British nationals, although a higher than expected number of FPNs were issued to people from BAME backgrounds (especially Asian people) and non-British nationals were over-represented compared to the general population (including those born in Asia). Nevertheless, it is not possible from the data presented in this report to draw any strong conclusions about disproportionality in policing practice based on the demographic profile of FPN recipients. Moreover, the absolute number of people from BAME backgrounds that were issued with FPNs during lockdown in Scotland is so small that population-based comparisons could be unreliable.

The timing and location of FPNs issued during lockdown tells a story of localised policing challenges influenced by the weather and the characteristic geography of Scotland. Marked spikes in enforcement activity largely coincided with weekends, holidays and periods of good weather; and these spikes are also evident in the geographical patterning of enforcement – especially in those Divisions that incorporate particularly popular tourist destinations and beauty spots. It is notable that Argyll and West Dunbartonshire (which incorporates Loch Lomond and



part of the Trossachs National Park) had the highest rate of FPN issue of all Divisions, and yet when accounting only for those that were resident in that Division, the rate of activity was dramatically lower. It is apparent that policing within some Divisions was made much more challenging by the degree of unnecessary travel across Divisional boundaries; while other Divisions had far fewer problems of this kind. Similarly, patterns of activity relating to breaches that occurred in outdoor places and those involving social gatherings indoors varied widely across the country. It seems clear from the data that the pattern of enforcement was driven not by 'macro-level' changes or public messaging, but by localised policing challenges and requirements.

A strong theme of this report is the relationship between enforcement and deprivation. Data such as the information collected by Police Scotland during the pandemic is rarely made available for research, and so it is difficult to make any comparisons of the profile of FPN recipients with any other police-based data. Nevertheless, the disparity in the likelihood of receiving an FPN for breaching the Coronavirus Regulations amongst those in the most and the least deprived communities of Scotland is startling. Whatever the reason, it demonstrates a significant degree of inequality across the Scottish population based on where people live and the circumstances they find themselves in. The pandemic has thrown into sharp relief the issue of health inequalities, and there are forecasts of increasing economic and employment inequalities in the months and years ahead. This report also highlights the possibility that there may have been justice inequalities, in terms of who has been subject to enforcement and the drivers of their non-compliance. The data presented here suggest that the level of inequality may have been particularly pronounced for women compared to men, people in middle age rather than younger people or those in the oldest age groups, and those from White and African, Black or Caribbean backgrounds compared to those from other ethnic groups. Within ethnic group, the largest disparity was found amongst those from African, Black or Caribbean backgrounds where the difference in likelihood of receiving a FPN was greatest between the most and least deprived; however, small numbers make it dangerous to draw any strong conclusions from these findings.

Finally, there has been strong speculation about the use of enforcement in different jurisdictions. Making comparisons between Scotland and other parts of the UK is difficult, as there were different ways of collecting and processing data. Based on published data, Scotland may look like it has a higher rate of enforcement activity during lockdown; however, the data are not comparable and so no robust conclusion can be drawn.

Further analysis of enforcement data will be carried out for subsequent reports to the IAG and the SPA. This will include a more detailed analysis of the individuals who received an FPN, differentiating between those who received single tickets and those who were issued with two or more FPNs. Comparisons to population level data will be more accurate, and will allow greater certainty about issues such as 'disproportionality' in policing between groups. In addition, some data on those who were arrested as a result of breaching the Regulations will be published. Further work will also be done to examine the ongoing profile of Police Scotland's use of the temporary powers as lockdown progressed into each new phase of easing restrictions.