

How did Scotland police the pandemic? By Susan McVie, Kath Murray and Ben Matthews

Recipients of the UKRI Economic and Social Research Council COVID-19 Rapid Response Award to research enforcement of social compliance with the Coronavirus Regulations in Scotland.

On 23 March 2020, in response to the rapid spread of the Coronavirus, the UK Prime Minister announced a national lockdown that placed extensive restrictions on movement and assembly. Two days later, the Coronavirus Act 2020 received Royal Assent and became law, providing the legal basis for the lockdown of citizens and businesses across the UK.

On 26 March each of the UK nations published its own set of Health Protection Regulations (the 'Regulations') which made provision for a number of emergency public health measures to reduce the health risks of the spread of the virus. In an unprecedented incursion into people's ordinary lives, the Regulations made it unlawful for a person to leave their home without a reasonable excuse, for more than two people to gather in a public place and required the closure of non-essential businesses. The Regulations also made it an offence to contravene the requirements set out in the legislation and provided the police with powers to issue a Fixed Penalty Notice (PFN) to any adult who was reasonably believed to have committed an offence under the Regulations.

Throughout the pandemic, the issue of compliance with the Regulations has been one of the most hotly debated topics, and yet there is a striking lack of robust evidence about how the powers were used and who was subject to them. Very little is known about the characteristics and circumstances of those who failed to comply with the Regulations, and information about people's reasons for their non-compliant behaviour is mostly based on anecdote and hearsay. Importantly, we also know nothing about the level of risk they posed to the public (in terms of the spread of the disease) or what impact police enforcement had on these people's lives.

Focusing on Scotland, the Policing the Pandemic project will provide the first in-depth examination of the factors and vulnerabilities underlying people's inability or unwillingness to comply with the Coronavirus Regulations. It will also estimate the risk posed by these individuals in terms of the spread of the coronavirus, and investigate the experiences of people who were subject to enforcement as a result of their non-compliance as well as police officers who were involved in enforcing the law.

Using a mixed method approach, this research will provide insights from a unique database of Fixed Penalty Notices (FPNs) that were issued in Scotland, which will be linked at an individual level to an array of health, economic and social data within Scotland's COVID-19 Data for Research. It will also involve interviews with individuals who received for breaching the Regulations and with police officers involved in issuing FPNs during the course of the pandemic.

Research objectives (in order of importance):

1. To determine the extent to which the likelihood of non-compliance was increased as a result of underlying social inequalities such as economic hardship, mental ill health, drug or alcohol addictions, or other forms of social vulnerabilities
2. To explore the motivations and reasons for non-compliance given by those who breached the Regulations
3. To explore what factors or alternative strategies might have enabled or encouraged individuals to comply
4. To identify what level of risk posed by those who failed to comply with the Regulations in terms of the likelihood of spreading COVID-19
5. To determine the effectiveness of enforcement as a mechanism for ensuring compliance with the Regulations and the impact it had on those who experienced it
6. To establish what lessons need to be learned in relation to the use of police enforcement in the context of a public health emergency, especially in terms of changes over time

Methodology

Working collaboratively with Police Scotland and Public Health Scotland, the researchers will develop a data linkage project that connects together police data on all FPNs issued during the pandemic with a range of health data measuring issues such as mental health conditions, alcohol and drug dependence, hospital admissions and ambulance call outs. In addition, the FPN data will be linked to information about COVID-19 testing and deaths. This part of the research will compare the characteristics of people who did not comply with the Regulations with those of a set of matched controls drawn from the wider population, and assess the level of risk of spreading COVID-19 posed by those who failed to comply with the Regulations.

With the support of Police Scotland, a sample of around 100 people who received a Fixed Penalty Notice (FPN) during lockdown will be selected for confidential interview. To ensure we capture views from people with different characteristics and from different areas, the sample will be stratified by age, sex, ethnicity, social background, and geography. These interviews will explore: the impact of the pandemic, attitudes to and understanding of Regulations and guidelines; attitudes toward police; behaviour during lockdown and circumstances surrounding the FPN; attitudes towards and impact of the FPN; and factors that could have increased the likelihood of compliance with the Regulations.

Interviews will also be held with a sample of approximately 30 police officers who served on the frontline during the pandemic and issued at least one FPN. Again, the sample will be stratified to capture different views and experiences, for example by sex, location, length of service and rank. These interviews will explore: the impact of the pandemic on their policing activities; attitudes to and ease of applying the Regulations and guidelines; perceptions of public behaviour during lockdown; use of the 4Es (engage, explain, encourage, enforce) and circumstances in which FPNs were issued; views about the impact of issuing FPNs on people's behaviour; factors that would have assisted the police in enabling people to comply; reflections on the lockdown and how adherence to the Regulations changed over time. Police Scotland will provide access to suitable officers.

Timeline and Impact

This project began in March 2021 and is expected to run for 18 months. There will be several outputs from the research,

including briefing papers designed specifically for policy makers and practitioners, academic papers to inform theoretical debate, and podcasts for a wider audience. The findings of this research will be of significant interest and value to police officers, policy makers, and politicians across the UK in considering how best to encourage, enable, support, or compel people to adhere to measures as we encounter future waves of the current pandemic, and in any future public health (or other) emergency requiring some form of mass public compliance. It will also benefit a range of academics from across the UK and internationally, with an interest in the role of policing in the context of a global pandemic, such as:

1. Criminology, policing and legal scholars who are concerned about the creation and exercise of new policing powers in the context of a pandemic. Our work will explore the ethical, legal and human rights issues raised by using enforcement (or the threat of it) as a key government tactic to drive compliance with public health policies. We will explore the theoretical basis that underpins public responses to the legitimacy of this type of policing practice through the lens of procedural justice theory.
2. Sociology, social policy and economics scholars who are interested in the impact of the pandemic on existing social and economic inequalities and how this influenced patterns of compliance with the new regulations. There is significant evidence to show that the measures introduced during the UK lockdown exacerbated existing inequalities, rather than creating new ones. We will explore the extent to which those with underlying vulnerabilities and disadvantage were subject to enforcement as a result of breaching the Coronavirus Regulations, and whether there is evidence that existing

inequalities were key drivers of non-compliance.

3. Public health scholars with an interest in citizen engagement with public health messaging and effective methods of achieving compliance with public health regulations. Our research will examine the effectiveness of policing powers in securing compliance, and seek to explore the advantages and disadvantages of enforcement as opposed to other methods of encouragement and enablement.

Team

Professor Susan McVie (PI) is Chair of Quantitative Criminology in the School of Law at the University of Edinburgh. She has extensive experience of researching issues relating to offending behaviour and the policing of the public. She is Co-Director of the longstanding Edinburgh Study of Youth Transitions and Crime (ESYTC), and Co-Director of the Scottish Centre for Administrative Data Research (SCADR). She is also an advisor to numerous Scottish and UK government committees and other public bodies, and was a member of the Independent Advisory Group on Police Use of the Temporary Powers under the Coronavirus Regulations in Scotland throughout the pandemic.

Dr Kath Murray (Co-I) is a Research Fellow in Criminology in the School of Law at the University of Edinburgh. She has worked extensively on the use of police stop and search powers in Scotland, undertaking both quantitative and qualitative analysis. In 2016, she received the Economic and Social Research Council (ESRC) Outstanding Early Career Impact prize for her doctoral research on stop and search, which led to major legislative and policy reform in Scotland.

Dr Ben Matthews (Co-I) is a Lecturer in Social Statistics & Demography at the University of Stirling. He is an experienced quantitative social researcher and has worked on multiple projects using administrative data from the Scottish justice system. He was previously a Research Fellow in Criminology and a Postdoctoral Research Associate in Social Science Research (Data Analysis and Statistics) at the University of Edinburgh.