

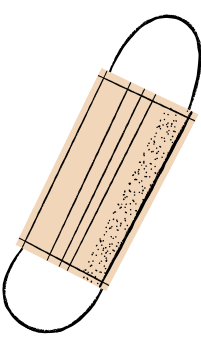


CORONAVIRUS FINES + CRIMES GUIDE

A short guide to help you navigate your rights and assess your options if you are stopped by the police for an alleged breach of the Coronavirus restrictions in England & Wales.

(V2 - 21.06.2021)

(1) CORONAVIRUS AND THE CRIMINAL LAW



In response to the Coronavirus pandemic, the UK government used their powers under the Public Health (Control of Disease) Act 1984 to pass lots of new Regulations. These Regulations contain restrictions that are intended to help prevent the spread of COVID-19. We will refer to these collectively as the 'Coronavirus Regulations'.

As the government response to the pandemic has changed, so too has the law, with new sets of Regulations being passed and old ones amended or retired. You can find a list of the Coronavirus Regulations past and present on the [UK government website](#).

The Coronavirus Regulations have also created new criminal offences. If you breach a restriction in force at the relevant time, and you do not fall within one of the exceptions or otherwise have a 'reasonable excuse', then you will be committing a criminal offence.

It is important to remember that not all of the government guidance is underpinned by law. For example, social distancing is strongly advisable at all times but you will not break the law if you are within 2m of someone else at the supermarket. The police and the courts only have the power to enforce the law, not government guidance.

A good place to check what the current restrictions are and what this means for you is the '[Coronavirus: Know Your Rights](#)' section on the Liberty website. There is also a Fixed Penalty Notices [FAQ Section](#) on the ACRO Criminal Records website.

(2) WHAT IS A FIXED PENALTY NOTICE?

If you are stopped by the police and they reasonably believe that you:

- (a) have committed an offence under the Coronavirus Regulations and,
- (b) you are 18 or over

they can give you a Fixed Penalty Notice (or 'FPN').


The FPN gives you the option to avoid being charged with a criminal offence by paying a fixed penalty (a fine for a set amount) to a local authority instead.

FPNs are usually issued by post. This written notice must tell you:

- (a) details about why what you were doing was an offence,
- (b) how long you have to decide whether or not to pay the fixed penalty before court proceedings may begin (usually 28 days),
- (c) the amount of the fixed penalty,
- (d) where and how you can pay the fine.



(3) DID I COMMIT AN OFFENCE?



If you are not sure whether you did or did not commit an offence under the Coronavirus Regulations, you can look up what the prosecution would need to prove and whether any exceptions or reasonable excuses apply in your case - the legislation is published [on this government website](#).

The 3 key things to check when trying to understand the law are:

1. Are you looking at the **correct legislation**? - pay attention to the precise law that you were charged under. It will be mentioned in your Fixed Penalty Notice - e.g. 'The Health Protection (Coronavirus, Restrictions) (No. 3) (England) Regulations 2020'. Be careful, the Coronavirus Regulations have similar names so make sure you are checking the right one.
2. Are you looking at the **correct version**? - the Coronavirus Regulations are frequently amended. When you are looking at a particular section of the law, there will be a timeline of any dates of changes at the top. Check you are looking at the version that applied on the date of the alleged offence.
3. Are there any **defined terms**? - there may be terms that are defined in a separate section of the legislation e.g. 'linked household'. Check the definition of those terms to make sure you understand the exact and specific meaning.

(4) HOW MUCH WOULD I PAY?

The size of the fixed penalty will depend on:

- (i) what the alleged offence is - both the type of offence (e.g. attending an unlawful gathering) and the date of the offence (i.e. what legislation was in force on that date), and
- (ii) whether you have received a FPN under the Coronavirus Regulations before.

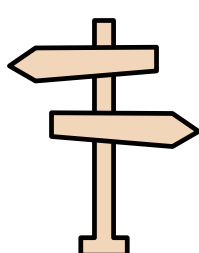


For a first offence the penalty will usually be £200. If you pay this within 14 days, this can be reduced to £100. If you commit a further offence, the penalty for that next offence will be double, i.e. £400. This is capped at £6,400 for the sixth and any further offences. However, the penalties even for first time offenders can be much higher for certain offences - e.g. organising a large gathering.

"What if I cannot afford to pay my Fixed Penalty Notice?"

It is not currently possible to pay a FPN in installments. If you committed an offence but can't afford to pay, you can raise this as a mitigating circumstance in the Magistrates Court. The Court will consider what you can afford to pay when imposing any fines, but be aware that this would also entail a criminal conviction.

(5) CAN I APPEAL THE FIXED PENALTY NOTICE?



There is no appeal system for FPNs, but individual Local Councils can decide to set up an appeal system for their area. If there is such an appeal system relevant to you, the details should be included in your FPN.

If an appeal is not an option in your area, the other possibilities are:

- (i) contesting a charge at the Magistrates Court, or
- (ii) challenging the police decision by judicial review in the High Court.

Judicial review will not be an appropriate option in most cases, and you will need legal advice from a specialist lawyer.

(6) THE MAGISTRATES' COURT - PROS AND CONS

If you do not pay the fixed penalty by the deadline set, you may be charged with a criminal offence and asked to appear in the Magistrates' Court.



If the court decide that you are **guilty** of the offence:

- (i) You may have to pay a fine. You will **not** go to prison for any of the Coronavirus Regulation offences.
- (ii) The offence will be added to your criminal record, and may be recorded on the Police National Computer.

If the court decide that you are **not guilty** of the offence:

- (i) You will not pay a fine or a fixed penalty.
- (ii) Nothing will be added to your criminal record.

You need to consider carefully whether or not it is worth contesting your case in the Magistrates' Court. If you are confident that there is an exception that applies or that you had a reasonable excuse for breaching a restriction then you may have a defence. You should seek legal advice now if you have not already.

Commons is a Legal Aid provider. We can advise you on your eligibility for funding in the Magistrates Court, but many cases will not be eligible. We also accept privately funded cases. You will need to consider the cost benefit in challenging a charge as opposed to paying your FPN if that remains an option.

"I never received a Fixed Penalty Notice, but have now received a letter telling me that I may be prosecuted / a Single Justice Procedure Notice / court summons - can I still avoid going to court?"

If you received a letter from the police, you should contact ACRO Criminal Records Office as soon as possible and ask for your FPN to be reissued (email: enquiries.cv19.fpn@acro.pnn.police.uk). Keep copies of any correspondence. If your case has already been passed to the court, the police will **not** be able to reissue the FPN. If you do not have a defence and do not want to contest the charge you can still raise the fact that you did not receive a FPN as a mitigating circumstance.

ABOUT COMMONS

Commons is the not-for-profit criminal law firm based in London, which was set up to provide legal advice and representation to people at the police station, at court and for appeals against conviction involving domestic and international cases.

We run a flagship crisis navigation service to ensure our clients access services that may be able to support them in a range of other areas of their lives such as housing, mental health, immigration, employment and more.

We collaborate with third sector partners to support service users with additional needs or vulnerabilities who may be at risk as a result of their criminalisation.

This Guide and the accompanying Coronavirus Fines + Crimes Web App (no longer in operation) were developed with funding from the Social Enterprise Support Fund, distributed by UnLtd, in conjunction with the National Lottery Community Fund.