



Part 1 - International policing responses to COVID-19: During lockdown



CRIME AND JUSTICE

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Purpose of the paper

The main purpose of this paper is to assess how COVID-19 may have impacted international policing responses **during lockdown** in other countries, in order to identify any useful learning. For this reason, evidence from Scotland is not included.

Jurisdictions covered

England and Wales, Northern Ireland, Republic of Ireland, Italy, France, Germany, Spain, Sweden, New Zealand, South Korea and USA.

Note on the evidence

The information in this paper was collected through a 'rapid intelligence review' of publicly available sources, such as relevant agency reports, government reports, and news reporting. This paper provides the most up-to-date available evidence, commentary and intelligence on international policing responses, but as the situation is rapidly evolving it may not be in all cases completely up-to-date at the time of reading.

Please note that the information provided covers the period from when the lockdown started in the country considered, up until **7 May 2020**.

Acknowledgements

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Areas for consideration based on international experience

- Policing the lockdown presents multiple complex challenges for the police, including safety concerns
- Most countries are now adopting a phased approach to easing the lockdown, ready to re-instate measures if necessary
- There are concerns about the use of contact-tracing apps, seen as potentially infringing on individuals' privacy
- The disproportionate effect of lockdown and emergency measures on marginalised communities should be carefully considered and factored into plans to ease restrictions
- The approaches which seem to enjoy good support according to recent public opinion data are basic traditional policing¹
- It will be problematic for police to enforce the next stage of restrictions where there are separate rules for different sections of society²
- There have been predictions in some academic circles of rising crime rates and possibly civil disorder/tensions as countries move into the next phase of the restrictions, which will place further strain on police forces³
- Time must be built in when easing the lockdown to ensure that political messaging is consistent with the legislation, and that the police are adequately trained and briefed on their role
- There may be issues with policing border areas if and when bordering countries ease restrictions at different times
- Policing the coronavirus will continue to be controversial, with regards to police powers, police discretion and police coordination⁴

¹ Correspondence with Dr Peter Neyroud

² <https://news.stv.tv/scotland/lifting-lockdown-differently-will-make-policing-harder?top>

³ [VRC - Criminology - University of Cambridge](#) Social Distancing in the Pandemic: Policing and Compliance

⁴ <https://www.theguardian.com/commentisfree/2020/apr/01/policing-under-coronavirus-the-real-test-is-yet-to-come>

Main points from the paper

- All countries analysed, apart from Sweden and South Korea, have followed a similar approach in responding to the COVID-19 pandemic through a lockdown enforced by police officers. However, what is permissible under lockdown varies from country to country, and is also enforced differently within many countries
- The [four 'E's model](#) of policing the coronavirus is being used in the UK, Republic of Ireland and New Zealand (an adapted model)⁵
- In most countries individuals found breaking the lockdown are encouraged to obey the restrictions in the first instance, but there is variation in enforcement approaches. For example, where the four 'E's model is used, only when people persistently flout lockdown rules or resist police instructions to comply, have they been fined and in some cases arrested, whereas the Spanish Ombudsman launched an investigation into whether fines are being issued correctly and proportionately
- Penalties range significantly across the countries examined here, from small fines to considerable prison sentences for particular coronavirus-related offences
- Technology is being used to aid law enforcement (and public health) to varying degrees across jurisdictions, mostly through drones, telecoms tracing, and the development of contact-tracing apps
- In some countries, the police have been using technology to monitor lockdown observance but are not using these methods generally as grounds to arrest or prosecute
- Clashes between the public and the police because of the restrictions have occurred in Germany, France and the USA
- In some countries the police anticipated an increase in domestic abuse as a result of the lockdown and proactively addressed this ahead of the lockdown
- The speed with which legislation has been introduced in many countries has led to loopholes in the law which, in combination with a lack of police training and official guidance in the early stages, and a mismatch between the law and the guidance/narrative, have led to confusion about new police powers. This has exacerbated an already challenging role for the police

⁵ These forces have been working in a similar way and have discussed approach at a Strategic level. These forces were involved in the Society for Evidence Based Policing discussions of COVID policing in March, have exchanged policies and learning on an on-going basis and have held online webinar events on issues such as domestic abuse.

Human Rights and Equalities considerations

- Human Rights and Equalities commissions in several countries are scrutinising the application of the respective new lockdown powers
- Some countries have established processes to assess and report regularly on the police's use of the new regulations to provide the public with assurances on the appropriate and proportionate use of the new powers
- Spain's controversial 'gag law', which has been accused of limiting citizens' rights to protest and free speech, is being used as a legal basis to enforce lockdown
- There have been a number of protests and clashes with the police connected to lockdown measures in different countries. Repeated clashes with the police in France's working class suburbs (banlieues) have been attributed to the lockdown's disproportionate effects on working class and Minority Ethnic communities (although these same areas experienced disorder prior to the pandemic). In Germany 100 people were arrested at a protest in Berlin, and both citizens and law enforcement have been protesting social distancing regulations in the USA
- Human rights groups have condemned the ordering and use of 'spit hoods' (which had also previously been used in the UK) by the Garda Siochana in the Republic of Ireland and concerns have been expressed there by the Police Authority
- There have been claims that the lockdown and social distancing rules are unconstitutional in Italy and the USA, but to date there have been no successful challenges
- There are privacy concerns about drones, and privacy and security concerns over contact-tracing apps in all countries where these have been developed, although such apps are not necessarily under the control of the police
- There have been some concerns from civil society organisations and members of the public about policing approaches of encouraging the public to police each other by reporting 'bad' behaviour to the police. However, according to Ipsos Mori's polling, overall support for the public calling in breaches was high

Risk to Health

- In some countries there have been challenges around police officers receiving consistent and coherent guidance about what Personal protective equipment (PPE) to wear in what situations, and having sufficient PPE to do their jobs safely
- There are concerns about adverse mental as well as physical health impacts on police officers, who have reportedly been repeatedly exposed to trauma when called to homes where people have died from COVID-19

Priority Areas for Medium and Longer-term Consideration/Action

- The urgent need to assess the crime and disorder implications of a severe recession and the resources available to the police to manage this post-COVID-19, when demands on policing resume
- The real test for the policing of the pandemic is likely to be in the months to come as restrictions are eased⁶.
- Identify the role of the police in the second phase of the lockdown
- Clarify differences between legislation, regulation and simple guidelines
- Prioritise democracy and human rights when de-escalating emergency measures and police surveillance
- Clarify how emergency powers and temporary limitation of rights are going to be phased out once COVID-19 is under control
- Policing the coronavirus regulations must not come at a cost to assisting victims of crime, especially victims of domestic abuse

⁶ This may be when '*policing of what is normal and abnormal, responsible and irresponsible, good freedom and bad freedom will become more complex, chaotic and confrontational*', <https://www.theguardian.com/commentisfree/2020/apr/01/policing-under-coronavirus-the-real-test-is-yet-to-come>

Introduction

In order to prevent the spread of COVID-19, police forces across the world have been given new emergency powers to ensure the public adhere to their country's lockdown rules. This paper describes what we know about how national police forces are policing and responding to the COVID-19 lockdown in other parts of the world, through a 'rapid intelligence review' of publicly available information.

The purpose of the paper is to describe how other countries are policing the lockdown and the issues emerging there, in order to provide an early assessment of considerations around policing for planning purposes. Countries which have been included are:

- Comparable to Scotland (English speaking, Common Law) – England and Wales, New Zealand, and the USA
- Further ahead in their experience of the pandemic and lockdown process to offer insights of issues arising around easing the lockdown – New Zealand, Spain, Italy, France, Germany, South Korea
- Appear, at the time of writing, to have handled policing the lockdown well (New Zealand, South Korea)
- Have chosen alternative approaches to a nation-wide lockdown (Sweden, South Korea)

There is some variation in the detail on countries presented here, due to differing availability of material and also time constraints. In order to avoid duplication of work, this paper does not explore the policing approach in Scotland, or public perceptions of the police's approach to enforcing the lockdown in Scotland. This is being addressed by [John Scott QC's Independent Advisory Group \(IAG\)](#). Instead the purpose of this paper is to identify any useful learning for Scotland.

This paper includes references to good and innovative practice – please note that these are what appear to be good and innovative practice based on the literature considered, and are unlikely to have been evaluated. Also, please note that 'social distancing' and 'physical distancing' refer to the same process, however some countries have chosen to use the latter as people are being recommended to keep physically distant while maintaining social connections⁷.

As the situation is constantly evolving, a follow-on paper has been produced [Part 2 - International policing responses to COVID-19: Easing of lockdown](#) (covering the period up until 15 June), which assesses how COVID-19 may have impacted international policing responses during the easing of lockdown in other countries, in order to identify any useful learning.

⁷ https://www.who.int/docs/default-source/coronaviruse/transcripts/who-audio-emergencies-coronavirus-press-conference-full-20mar2020.pdf?sfvrsn=1eafbff_0

England and Wales

Main points

- Policing in England and Wales is based on building public co-operation through trust, shared values, fairness and effectiveness
- The delay between the Prime Minister addressing the nation to stay at home and the regulations coming into force caused uncertainty about how stay at home orders would be enforced and some initial confusion about the rules for the police
- Key challenges: Police officers require an understanding of the COVID science and clarity on the legislation, which is complex and evolving. Arresting people brings a significant potential health risk, particularly where officers have insufficient PPE and there have been inconsistencies around the guidance about what PPE to wear in what situations. Regulations do not provide police officers with a 'stop and account' power they can use to require people to answer questions about why they are outside. There are also concerns about the mental health of police officers
- Some police leaders have expressed concerns about how enforcing the restrictions could affect the relationship between the police and public
- Police chiefs have urged the public to stop exploiting the coronavirus pandemic to settle vendettas, after forces reported that many people have been 'lockdown shaming' as part of ongoing domestic disputes
- Forces across England and Wales have drawn up contingency plans for losing significant numbers of staff in the outbreak, which will see them prioritise emergency response, serious crimes and threat to life
- There is a grey area between the policing approach and what is actually written in the legislation and the government's updated advice and guidance which led in some cases to overzealous enforcement. Forces have been urged to continue to correct errors quickly so that public trust is maintained
- Given the confusion around best practice, there are concerns that people should not be unduly or unfairly penalized, especially fines for those facing unexpected financial hardship
- There have also been concerns that this policing activity may come at a cost to assisting other victims of crime, principally victim-survivors of domestic abuse
- There is an increase in (pre-COVID-19) recorded cases being progressed and charged, as police have had a lighter workload and full workforce during this period, and so have been progressing through a backlog of paperwork/cases

- Serious concerns have been shared that the legislation came into force with minimal parliamentary debate and scrutiny and fundamental human rights have been compromised
- Parliament's joint committee on Human Rights stresses that all measures should comply with the UK's obligations under the UN and European conventions on human rights.

Legislation

England and Wales saw the [Coronavirus Act 2020](#) (primary legislation) enacted on 25 March 2020 and the [Health Protection \(Coronavirus, Restrictions\) \(England\) Regulations 2020](#) (secondary legislation) come into force on 26 March 2020. The latter are known as the lockdown restriction laws. The Welsh Government enacted the Wales coronavirus restriction Regulations 2, which are very similar to the England coronavirus restriction Regulations 1 but with some notable differences⁸. The purpose of the powers under the Coronavirus Act is to support Public Health in testing and treating individuals where needed, to avoid further transmission of the virus. The purpose of the Regulations is to save lives by protecting the public and the NHS⁹. As with Wales, Northern Ireland and Scotland, these must be reviewed every 21 days (the first review was carried out on 16 April) and in all four countries the regulations must be 'terminated' as soon as the restrictions and requirements set out in the regulations are 'no longer necessary'¹⁰.

The lockdown

The Regulations contain powers in relation to business closures with restrictions on movement and powers to disperse gatherings:

- Restrictions on leaving home - The onus is on the citizen to justify 'reasonable excuse' - such as to shop for basic necessities, take exercise etc. The English regulations were amended on 21 April¹¹ to expand the restriction and there are now 13 reasons why people can leave home with a 'reasonable excuse'¹²
- Restrictions on gatherings - the regulations make it an offence to gather in groups of more than two, with four exceptions where larger gatherings are allowed¹³

⁸ Such as the distinctions between two-metre distancing, exercising, powers of entry, closures of public paths and land and issuing fines - [Coronavirus Regulations briefing for Wales](#).

⁹ Use of powers under this legislation are public health led. The powers are to support public health officers in the testing and treatment of individuals where needed, to avoid further transmission of the COVID-19 virus.

¹⁰ <https://commonslibrary.parliament.uk/research-briefings/cbp-8875/>

¹¹ <https://commonslibrary.parliament.uk/research-briefings/cbp-8875/>

¹² <https://commonslibrary.parliament.uk/research-briefings/cbp-8875/>

¹³ <https://commonslibrary.parliament.uk/research-briefings/cbp-8875/>

Enforcement powers

The regulations provide police officers, police and community support officers (PCSOs), and others if designated with a range of enforcement powers. The police can now:

- Direct people they ‘consider’ to be outside having left home without a reasonable excuse, to return home. The regulations make it an offence to disobey such a direction
- Use ‘reasonable force, if necessary’ to take people to their home who they ‘consider’ are outside having left home without a reasonable excuse
- Direct a prohibited gathering to disperse and use ‘reasonable force, if necessary’ to take people from a prohibited gathering to their home. It is also an offence to disobey a direction relating to a gathering
- Use ‘any action that is necessary’ to enforce the prohibition of gatherings
- These regulations do not appear to require those enforcing them to issue a direction before a penalty¹⁴

The level of suspicion required to use these enforcement powers is relatively low and police are only required to ‘consider’ that people are contravening the regulations to direct them to return home and use necessary and reasonable force to take them home if they refuse. Police officers are normally required to demonstrate they had ‘reasonable grounds’ for suspecting individuals have a prohibited item before conducting a stop and search and so this represents a less stringent test than is typical for police powers. Police in England and Wales also have an expanded power of arrest ¹⁵.

The police do not have powers to make decisions to quarantine; there is no power to ‘stop and account’¹⁶, to place restrictions or require information (which can only be made by public health officers and are subject to regular review and appeal). Similarly, there are no powers under this legislation to mount roadblocks or to stop vehicles at will¹⁷.

¹⁴ <https://commonslibrary.parliament.uk/research-briefings/cbp-8875/>

¹⁵ <https://commonslibrary.parliament.uk/research-briefings/cbp-8875/>

¹⁶ <https://webarchive.nationalarchives.gov.uk/20130125094331/http://www.homeoffice.gov.uk/police/powers/stop-and-search/>

¹⁷ <https://www.theguardian.com/world/2020/mar/26/uk-police-use-drones-and-roadblocks-to-enforce-lockdown>

Policing the lockdown

Revised professional guidance was issued for police in England and Wales from the National Police Chiefs' Council (NPCC) and the College of Policing¹⁸ (CoP), on the 31 March, which provides more advice and clarity to officers on how to interpret the lockdown restrictions. The guidance summarises the powers and provides operational best practice following some confusion and misinterpretation of the law (below). The police's approach to all COVID-19 powers, outlined in this guidance, are underpinned by the four 'E's'¹⁹ - for officers to Engage, Explain, Encourage the public *and only Enforce as a last resort*.²⁰



Policing the Coronavirus (COVID-19) Regulations

Policing will adopt a four phase approach which fits with our policing by consent model - it's founded on public cooperation.

Engage - officers may ask people out in public about their circumstances.

Explain - officers may point out the risks people are taking, explain the social distancing regulations and highlight our shared responsibilities.

Encourage - officers may need to advise individuals to return home, and emphasise that by staying at home we can help save lives.

If an officer has been explicit in their request for a person to return home, having explained why, and that person has refused, then it may become necessary to:

Enforce - officers may, as a last resort, remove a person to their home, using reasonable force only if it is necessary and proportionate for compliance. They may also fine individual(s) for breach of the Regulations.

#StayHomeSaveLives

The four 'E's are based on evidence that people are more likely to comply after a police encounter if they feel they have been treated fairly, have received an explanation, and have been given the opportunity to give their view. The four 'Es' are based on principles of procedural justice²¹ and the policing by consent²² model - building public co-operation through trust, shared values, fairness and effectiveness.

This enforcement model is designed to be flexible, discretionary and pragmatic, and the College of Policing guidance encourages officers to have an 'inquisitive mindset' and consider whether 'it might not be safe for everyone to be at home'. This is different to other models being used to police the

lockdown around the world. It has been argued that this model has neither the clarity of the Italian or Spanish model nor the Swedish 'lite' model which is more permissive²³.

What does this mean for the public in England and Wales?

There are five main summary offences created by the legislation. These offences are punishable on summary conviction (magistrates' court) by a fine not exceeding £1,000. The police have the power to issue Fixed Penalty Notices (FPNs) to adults they

¹⁸ <https://www.college.police.uk/What-we-do/COVID-19/Pages/COVID-19.aspx>

<https://www.college.police.uk/Documents/COVID-19-Police-brief-in-response-to-Coronavirus-Government-Legislation.pdf>

<https://www.college.police.uk/News/College-news/Pages/Health-Protection-Guidelines.aspx>

¹⁹ <https://www.college.police.uk/What-we-do/COVID-19/Documents/Engage-Explain-Encourage-Enforce-guidance.pdf>

²⁰ In line with the [Health Protection regulations](#), enforcement should be the last option.

²¹ <https://www.gov.uk/guidance/procedural-justice>

²² <https://www.gov.uk/government/publications/policing-by-consent/definition-of-policing-by-consent>

²³ <https://soundcloud.com/vrc-cambridge/social-distancing-in-the-pandemic-policing-and-compliance>

'reasonably believe' have committed an offence under the regulations²⁴. There is a specific procedure, set out in the regulations, for issuing FPNs associated with the current lockdown.

The Crown Prosecution Service (CPS) announced that people who deliberately cough on emergency workers during the coronavirus outbreak will be jailed for up to two years, as coughing will be charged as an assault on an emergency worker, or common assault if used against other key workers or members of the public²⁵.

By 1 May, Police had received reports of more than 194,300 coronavirus-related incidents²⁶. Between 23 March and 27 April there were 8,877 FPNs in England and 299 in Wales in the month, with 391 reoffenders in England and Wales²⁷.

Officials could not immediately confirm if anyone had been given the maximum £960 fine²⁸. 4,152 fines had been issued in the first two weeks of the powers being in force (not the 3,200 originally announced), with a further 4,725 handed out in the next two weeks, with the majority being given to men under the age of 35²⁹.

Challenges for policing the coronavirus regulations

There are clear challenges around policing the 'Four 'Es' approach where Engagement and Encouragement require police to be at a distance of 2 meters in order not to be breaching guidelines. Explanation requires an understanding of the COVID science and clarity on the legislation, which is complex and evolving and has already been amended³⁰. And enforcement (arresting people) brings a significant potential health risk, particularly in cases where officers have insufficient PPE. The regulations do not provide police officers with a 'stop and account' power they can use to require people to answer questions about why they are outside. Therefore, the police must rely on the cooperation of individuals they question whilst enforcing the regulations³¹.

²⁴ In England, Wales and Northern Ireland these FPNs can be issued to those aged 18 and over; in Scotland they can be issued to those aged 16 and over.

²⁵ <https://www.independent.co.uk/news/uk/crime/coronavirus-lockdown-uk-arrest-fine-police-rules-latest-a9428196.html>

²⁶ <https://www.independent.co.uk/news/uk/crime/coronavirus-uk-lockdown-fines-police-england-cases-guidelines-a9492296.html>

²⁷ <https://www.independent.co.uk/news/uk/crime/coronavirus-lockdown-uk-arrest-fine-police-rules-latest-a9428196.html>

²⁸ <https://www.independent.co.uk/news/uk/crime/coronavirus-uk-lockdown-fines-police-england-cases-guidelines-a9492296.html>

²⁹ <https://www.independent.co.uk/news/uk/crime/coronavirus-uk-lockdown-fines-police-england-cases-guidelines-a9492296.html>

³⁰ https://www.vrc.crim.cam.ac.uk/sites/www.vrc.crim.cam.ac.uk/files/pn_policing_the_pandemic.pdf

³¹ <https://commonslibrary.parliament.uk/research-briefings/cbp-8875/>

Resourcing

Senior police officers expect 'police forces across the UK to 'come under increasing strain' during the coronavirus campaign. There have been calls for 'police specials', to volunteer more time during the pandemic³². Forces across England and Wales have drawn up contingency plans for losing significant numbers of staff in the outbreak, which will see them prioritise emergency response, serious crimes and threat to life³³.

Personal protective equipment (PPE)

There have been challenges around consistent and coherent guidance about what PPE to wear in what situations. The Police Federation (which represents rank-and-file officers in England and Wales) said contradictory instructions had been issued based on clashing advice from Public Health England (PHE) and the Health and Safety Executive (HSE). New guidance was issued latterly³⁴. There have also been some reports of officers not having sufficient PPE to do their jobs safely³⁵.

Impact on the mental health of the officers

Police officers have reportedly been 'repeatedly exposed to trauma' as they are increasingly called to homes where people have died during the coronavirus outbreak³⁶. Some police leaders have expressed concern about how enforcing the restrictions could affect the relationship between the police and public and others have gone further to argue that the bond of trust between the public and the police service will come under intolerable strain^{37,38}.

Misinformation/lockdown shaming

Police chiefs have urged the public to stop exploiting the coronavirus pandemic to settle vendettas, after forces reported that many people have been 'lockdown shaming' as part of ongoing domestic disputes. Police have been inundated with thousands of daily reports of people allegedly breaching coronavirus rules. Deliberate false reporting is often part of neighbour or domestic disputes and long running feuds³⁹.

³² <https://commonslibrary.parliament.uk/research-briefings/cbp-8875/>

³³ <https://www.independent.co.uk/news/uk/crime/coronavirus-lockdown-uk-arrest-fine-police-rules-latest-a9428196.html>

³⁴ <https://www.independent.co.uk/news/uk/home-news/coronavirus-police-ppe-postcode-lottery-lockdown-a9458401.html>

³⁵ <https://www.polfed.org/wilts/news/2020/ppe-and-lack-of-testing-are-critical-concerns-of-officers-pfew-tells-home-affairs-select-committee/>

³⁶ <https://www.independent.co.uk/news/uk/home-news/coronavirus-police-deaths-uk-lockdown-homes-mental-illness-a9459711.html>

³⁷ <https://www.theguardian.com/commentisfree/2020/apr/07/england-coronavirus-lockdown-police-enforcement>

³⁸ <https://commonslibrary.parliament.uk/research-briefings/cbp-8875/>

³⁹ <https://www.theguardian.com/world/2020/apr/18/police-call-for-end-to-lockdown-shaming-as-a-weapon-in-feuds>

<https://www.theguardian.com/society/2020/apr/18/duty-or-score-settling-rights-and-wrongs-of-corona-shaming>

Critiques of the policing approach in England and Wales

Discrepancies between the regulations and government guidance

There was a gap of two and half days between the Prime Minister addressing the nation to instruct them to stay at home (Monday 23 March 2020) and the relevant regulations coming into force in England, Wales and Scotland (Thursday 26 March 2020). The delay caused uncertainty about how the instruction to stay at home would be enforced⁴⁰. For example, some of the public statements that were made about restrictions are guidance only and non-enforceable under the law, e.g. only one period of exercise is allowed each day. These inconsistencies led to some initial confusion about the rules for the police⁴¹.

Other controversies are outlined in the House of Commons Briefing paper and surround the misuse of self-isolation powers in the Coronavirus Act 2020⁴². While officers would normally be trained before new legislation came into force, the Police Federation explained to the Home Affairs Select Committee that lockdown powers under the Health Protection (Coronavirus) Regulations and the Coronavirus Act were brought in so quickly that this was not possible⁴³. It has been argued that there is a grey area between the policing approach (police interpreting the law for themselves, applying common sense and discretion), what is actually written in the legislation, equivalents for the rest of the UK, and the government's advice and guidance, which is regularly tweaked and updated at the daily No 10 press conferences, and that this led in some cases to overzealous enforcement and shaming people for their behaviour⁴⁴. Examples of this include (these are not intended as an exhaustive list of forces deploying such methods):

- Humberside, Greater Manchester, Avon and Somerset and West Midlands police were amongst forces operating online portals for members of the public to report those who appear to be flouting the rules
- Derbyshire was a police force which used drones to spot and then 'shame' people on social media for venturing into countryside for exercise⁴⁵
- Durham and North Yorkshire police employing checkpoints on roads, to stop people and enquire about their destination⁴⁶

⁴⁰ <https://commonslibrary.parliament.uk/research-briefings/cbp-8875/>

⁴¹ <https://www.theguardian.com/uk-news/2020/mar/27/police-acknowledge-confusion-over-uk-lockdown-rules>

⁴² <https://commonslibrary.parliament.uk/research-briefings/cbp-8875/>

⁴³ <https://www.yorkpress.co.uk/news/18362119.coronavirus-police-bosses-explain-inconsistencies-lockdown-enforcement/>

⁴⁴ <https://www.newstatesman.com/science-tech/coronavirus/2020/03/police-coronavirus-lockdown-government-punishment-advice>

⁴⁵ <https://www.bbc.co.uk/news/uk-england-derbyshire-52055201>

⁴⁶ <https://www.kent.ac.uk/news/society/24865/expert-comment-police-power-during-COVID-19>

The former Supreme Court justice Jonathan Sumption has likened these excessive actions to those of a 'police state'⁴⁷. However, a Commons Home Affairs Committee report on the police response to coronavirus published on 17 April found the overall police response to COVID-19 restriction of movement powers has been 'proportionate and effective'. It has urged forces to continue to address and correct errors quickly 'so that public trust is maintained'. The report said that some early errors were 'not surprising' given the pace at which the new regulations had to be introduced. The committee's report calls for 'regular monitoring' by the NPCC and the College of Policing 'where there is significant divergence in the use of enforcement measures'.

Inconsistencies in enforcement

The FPN figures for the Police Services of England and Wales demonstrate that there is considerable variation in enforcement of these. At one point in March this varied from 81 (London) to 380 (Lancashire).⁴⁸

There are concerns that given the confusion around best practice during the pandemic, that people are not unduly or unfairly penalized, especially fines for people who are facing unexpected financial hardship as a result of the emergency measures. There have also been concerns that this policing activity may come at a cost to assisting other victims of crime, principally victim-survivors of domestic abuse.

Human Rights concerns

Serious concerns have been shared that this legislation came into force with minimal parliamentary debate and scrutiny, and that in a matter of days: "parliament legislated away fundamental human rights that were hard won over centuries – freedom of movement, freedom of assembly, rights to family life, even the right to refuse consent to medical treatment when of sound mind". Mike Schwarz who specialises in civil liberties argues that the emergency legislation is 'sweeping and drastic' and 'represents a draconian expansion in police and state powers.' Schwarz argues that while it should be measured against its ability to tackle the virus now, it poses a significant long-term threat to: "individuals' human rights, the fabric of the rule of law, the protection of the vulnerable and excluded in society" and questions whether the damage done to these interests can be repaired after the virus is under control⁴⁹.

Adam Wagner (human rights lawyer appointed as Specialist Advisor to Parliament's COVID-19 Human Rights Inquiry) asserts the need for emergency laws to meet four tests in order to safeguard liberty - Scrutinised, Lawful, Impermanent and Proportionate (SLIP). Whilst recognising the issues with the way the emergency legislation was introduced, he notes that the lockdown regulations must be reviewed every 21 days and be discontinued as soon as any particular restriction is no longer necessary and so future changes to the

⁴⁷ <https://www.theguardian.com/uk-news/2020/mar/30/uk-police-guidelines-coronavirus-lockdown-enforcement-powers-following-criticism-lord-sumption>

⁴⁸ https://www.vrc.crim.cam.ac.uk/sites/www.vrc.crim.cam.ac.uk/files/pn_policing_the_pandemic.pdf

⁴⁹ <https://www.theguardian.com/commentisfree/2020/apr/07/england-coronavirus-lockdown-police-enforcement>

lockdown regulations should provide the opportunity to improve the emergency laws, through proper scrutiny⁵⁰.

In a recent SCCJR blog, Dr Aston writes that a fundamental concern with police powers is always the balance with human rights, and securing public safety and individual rights and freedoms⁵¹. She notes that this is particularly the case when new legislation opens up the likelihood of a wider spectrum of society to being policed in this way, rather than the policing of ‘the other’: “Given the implications of lockdown will vary depending on people’s situations, and will be layered with inequality, this will impact on the likelihood of being policed”. However, Aston points out that compliance has generally been high and public confidence is likely given the four ‘E’s approach⁵².

Parliament’s joint committee on Human Rights published an interim report into potential civil liberties issues that could arise because of the powers in the legislation. It stresses that all measures should comply with the UK’s obligations under both the UN and European conventions on human rights. The committee will scrutinise the measures taken and any proposed legislation⁵³.

Technology

In the UK, the ICO has stated that generalised location data trend analysis is helping to tackle the coronavirus crisis and, when properly anonymised and aggregated, the data gathered does not fall under data protection law because no individual is identified⁵⁴. A contact-tracing app is being developed and should be available in the near future⁵⁵.

⁵⁰ <https://www.prospectmagazine.co.uk/politics/coronavirus-covid-19-law-parliament-emergency-powers>

⁵¹ <https://sccjrblog.wordpress.com/2020/04/30/covid-19-implications-for-policing/>

⁵² <https://sccjrblog.wordpress.com/2020/04/30/covid-19-implications-for-policing/>

⁵³ <https://www.theguardian.com/world/2020/mar/19/coronavirus-suspects-may-be-detained-under-uk-emergency-powers>

⁵⁴ <https://ico.org.uk/about-the-ico/news-and-events/news-and-blogs/2020/03/statement-in-response-to-the-use-of-mobile-phone-tracking-data-to-help-during-the-coronavirus-crisis/>

⁵⁵ <https://www.theguardian.com/politics/2020/apr/28/uk-contact-tracing-plans-an-nhs-app-and-an-army-of-health-staff>

Northern Ireland

Main points

- Northern Ireland's policing approach is also based on the four 'E's model
- Community resolution notices and penalty notices of £60 are being handed out to those not respecting the lockdown
- People can report those not respecting the lockdown through an online form
- Technology which is usually used to track earthquakes being used to monitor people's movements
- Government might ease lockdown at a different pace from the rest of the UK if necessary

The lockdown

The Health Protection Regulations 2020 were introduced by the Northern Ireland Executive on 28 March, 2020. People are being told to leave their house only for a reasonable excuse. This includes the need:

- to get basic necessities, including food and medical supplies
- to take exercise either alone or with other members of the household
- to seek medical assistance
- to provide care or assistance to a vulnerable person, or to provide emergency assistance
- to donate blood
- to travel for the purposes of work or to provide voluntary or charitable services, where it is not reasonably possible for that person to work, or to provide those services, from the place where they are living
- to attend a funeral of a family member⁵⁶

When they leave their homes, people should stay 2 metres away from others⁵⁷.

Gatherings of more than two people are also banned⁵⁸. The public is encouraged not to drive to local beauty spots for their daily exercise as others may have the same idea and social distancing may not be achievable⁵⁹.

⁵⁶ <https://www.nidirect.gov.uk/articles/coronavirus-COVID-19-staying-home-and-self-isolation>

⁵⁷ <https://www.nidirect.gov.uk/campaigns/coronavirus-COVID-19>

⁵⁸ <https://www.nidirect.gov.uk/articles/coronavirus-COVID-19-staying-home-and-self-isolation>

⁵⁹ https://www.psni.police.uk/advice_information/COVID-19/

Policing the lockdown

Officers are using the new dispersal powers to protect the health of the public and they are following the same four-phased approach as in the rest of the UK (Engage, Explain, Encourage, Enforce)⁶⁰. If a person fails to comply with the above restrictions without a reasonable excuse, they may receive a Community Resolution Notice. If required, the police can issue a penalty notice of £60. For those who continue to disregard the NI Executive directions, the fine can be doubled each time and summary prosecution can be sought for those who refuse to pay or comply. The £60 fine can fall to £30 if paid within 14 days.

The police launched a webpage for people to report alleged breaches of social distancing rules through an online form⁶¹. On 24 April, it was reported that the police in Northern Ireland had received 3,787 reports about perceived breaches to social distancing guidelines in just six days. However, a number of the reports related to people allegedly not following guidance, rather than fully breaching the lockdown regulations⁶². As of 29 April, 374 fines and 615 community resolution notices directing people to behave differently had been issued⁶³.

There has been a debate over social distancing regulations, and the police and health authorities are 'deeply concerned' that such debate might encourage people to ignore official advice. They released a statement on 28 April, saying that: "the current discourse may serve to undermine public confidence in the overall regulations, and encourage some people to ignore the strong guidance from the Northern Ireland Executive – with potentially devastating consequences. There will inevitably be some shades of grey. That's the reality of life. The police have rightly made clear that officers will apply a 'reasonableness' test on occasions when deciding if some behaviours may breach the regulations"⁶⁴.

Issues at the border

A surge in coronavirus infections on Ireland's border with Northern Ireland has prompted concern about a possible spill over between the two jurisdictions. However, authorities on both sides of the border have downplayed suggestions of spill over⁶⁵. Furthermore, Garda (Irish police) in the border region have been ordered not to arrest anyone from Northern Ireland for suspected breaches of the COVID-19 regulations, for example for breaches of the restriction on exercising within a set distance from home. It is thought this is due to a gap in government emergency legislation. However, the Department of Health in the

⁶⁰ https://www.psni.police.uk/advice_information/COVID-19/

⁶¹ <https://www.psni.police.uk/covid19/>

⁶² <https://www.itv.com/news/2020-04-21/psni-receive-3-787-reports-in-six-days-over-alleged-social-distancing-breaches/>

⁶³ <https://www.belfasttelegraph.co.uk/news/northern-ireland/many-people-still-not-following-social-distancing-guidelines-say-police-39168856.html>

⁶⁴ <https://www.belfasttelegraph.co.uk/news/northern-ireland/police-deeply-concerned-people-could-ignore-official-advice-on-coronavirus-39163521.html>

⁶⁵ <https://www.theguardian.com/world/2020/apr/29/concerns-raised-as-COVID-19-cases-surge-along-irish-border>

country has insisted there is no anomaly with the regulations⁶⁶, and Garda Commissioner Drew Harris confirmed that anyone from the North was subject to all other restrictions and Garda legislation. Border checkpoints have been announced for the May Bank Holiday period⁶⁷.

Technology

The Irish authorities are using technology normally associated with measuring earthquakes to check whether people are complying with the lockdown, measuring car traffic noise and reverberation. As of 24 April, these appeared to have increased, indicating that more people were out driving or walking. Officials are also using data from Apple-made smartphones, which is also indicating an increase in the numbers, driving, walking and using public transport⁶⁸.

Easing the lockdown

Northern Ireland's First Minister has advised that the country might ease the lockdown at a different pace than the rest of the UK⁶⁹. After being closed since the start of the lockdown, cemeteries have been reopened on a controlled basis, and the Environment Minister has suggested that garden centres should also be allowed to reopen, if they can manage social distancing.⁷⁰

⁶⁶ <https://www.bbc.co.uk/news/uk-northern-ireland-52432555>

⁶⁷ <https://www.belfasttelegraph.co.uk/news/health/coronavirus/psni-and-garda-to-ensure-coronavirus-restrictions-on-travel-are-adhered-to-over-bank-holidays-39169044.html>

⁶⁸ <https://www.bbc.co.uk/news/world-europe-52410280>

⁶⁹ <https://www.bbc.co.uk/news/uk-northern-ireland-52390373>

⁷⁰ <https://www.bbc.co.uk/news/uk-northern-ireland-52468717>

Republic of Ireland

Main points

- Four 'E's approach to policing the lockdown
- A breach of the lockdown provisions could result in a fine of up to €2,500 or six months imprisonment
- Garda has been instructed to only use the emergency legislation as a last resort and to make COVID-19 related arrests under other legislation if possible
- Garda members have been instructed that they should not arrest anyone from Northern Ireland in relation to the restriction on exercising within a set distance from home, but Garda Commissioner Drew Harris confirmed that anyone from the North was subject to all other restrictions and Garda legislation
- The Garda Síochána ordered 16,000 'spit hoods' at the start of the restrictions and as of 25 April, they had been used 15 times
- On the 01 May, the Government published their 'Roadmap for reopening business and society', which sets out the five stage plan for lifting the country's COVID-19 restrictions

The lockdown

On 27 March, Taoiseach Leo Varadkar placed the Republic of Ireland in de-facto lockdown until the 12 April. The lockdown was later extended to 05 May and then again until the 18 May. Under the measures⁷¹:

- People must stay at home except to access essential services or attend essential work if they cannot work from home
- People cannot meet or gather with people outside of their household
- People must maintain 2 meter physical distancing
- Exercise must be undertaken within 5km of home (the limit was 2km until 05 May)
- All education and community centres are closed
- Nationwide restrictions on travel
- People aged over 70 and extremely medically vulnerable groups must 'cocoon' but as of 05 May can leave their homes to exercise provided they avoid all contact with others

⁷¹ <https://www.gov.ie/en/publication/cf9b0d-new-public-health-measures-effective-now-to-prevent-further-spread-o/>

Legislation

The restrictions on movement and gatherings were given legal effect in regulations made under the Health (Preservation and Protection and Other Emergency Measures in the Public Interest) Act 2020, an amendment to s31A of the Health Act 1947. The regulations were signed by the Minister for Health on 07 April 2020 and came into force the following day⁷².

Garda Síochána powers

The above restrictions are expressed as penal provisions for the purposes of the Health Act and a breach of them constitutes an offence. Section 31A of the Health Act 1947, as amended, provides the Garda Síochána with enforcement powers to protect public health from the COVID-19 pandemic⁷³.

Where Gardaí suspect that a person is breaching a penal provision they can:

- Direct them to take steps to ensure compliance e.g. to go home
- Demand their name and address
- Arrest without warrant where someone continues not to comply⁷⁴

A breach of the provisions could result in a class C fine (up to €2,500) or six months imprisonment. The Garda Síochána must seek permission from the Director of Public Prosecutions before bringing charges under the emergency legislation⁷⁵. In spite of the provision of additional powers, Gardaí have been instructed to only use the emergency legislation as a last resort and to make COVID-19 related arrests under other legislation if possible⁷⁶.

Owing to a loophole in the Health Act legislation, Gardaí have been instructed that they should not arrest anyone from Northern Ireland in relation to the restriction on exercising within a set distance from home (2km until 05 May, currently 5km), as they do not have an overnight place of residence in the country. But Garda Commissioner Drew Harris confirmed that anyone from the North was subject to all other restrictions and Garda legislation⁷⁷.

⁷² <https://www.gov.ie/en/press-release/e9d120-minister-for-health-simon-harris-signs-regulations-to-give-an-garda/>

⁷³ http://www.justice.ie/en/JELR/Pages/Use_of_COVID-19_related_powers_by_An_Garda_S%C3%ADoch%C3%A1na

⁷⁴ http://www.justice.ie/en/JELR/Pages/Information_regarding_the_Justice_Sector_COVID-19_plans

⁷⁵ <https://www.irishtimes.com/news/crime-and-law/arrests-under-COVID-19-legislation-more-than-quadruple-in-a-week-1.4234307>

⁷⁶ <https://www.irishtimes.com/news/crime-and-law/arrests-under-COVID-19-legislation-more-than-quadruple-in-a-week-1.4234307>

⁷⁷ <https://www.irishtimes.com/news/crime-and-law/coronavirus-garda%C3%AD-have-made-76-arrests-for-breaches-of-lockdown-regulations-1.4240136>

At request of the Minister for Justice and Equality, the Garda Síochána publish data on the use of the emergency powers. Furthermore, the Minister also asked the Policing Authority to assess and report regularly on the force's use of the regulations. The Authority's [first report](#) was received by the Minister on 20 April 2020. These steps are intended to provide the public with assurances on the appropriate and proportionate use of the new powers⁷⁸.

The Irish Human Rights and Equality Commission expressed a desire for more detailed data on the application of new powers, in order to assess whether they are being implemented in line with human rights and equality principles across different sectors of society⁷⁹.

Policing approach

Based on its tradition of policing by consent, the Garda Síochána adopted a gradual four 'E's approach to policing the public health guidelines, similar to the UK and New Zealand models and outlined in this paper:

- Engage
- Educate
- Encourage
- Enforce - only to be used as a last resort

Gardaí have sought to be highly visible, building on their ethos of community policing and helping the most vulnerable in society. To assist with this a number of resourcing measures were taken including: adding 450 staff to frontline duties; hiring of 210 additional vehicles to provide increased nationwide mobility; new roster arrangements; and postponing retirements. These organisational changes increased available personnel resources by 25%⁸⁰.

Throughout the lockdown, authorities have stressed that normal policing operations to prevent and detect crime continue, with domestic abuse prioritised. The organisation established Operation Faoiseamh to specifically address increased risks and incidence. The Garda Síochána continues to respond to reports as a top priority and their pro-arrest intervention policy remains, with arrest viewed as a way to take an offender out the home⁸¹. Victim-survivors of domestic abuse recorded in 2018-2020 were contacted by Garda members and those assessed as high risk were visited⁸².

⁷⁸ http://www.justice.ie/en/JELR/Pages/Information_regarding_the_Justice_Sector_COVID-19_plans

⁷⁹ <https://www.ihrec.ie/statement-from-the-irish-human-rights-and-equality-commission-on-COVID-19-oversight-in-respect-of-human-rights-and-equality/>

⁸⁰ http://www.justice.ie/en/JELR/Pages/Information_regarding_the_Justice_Sector_COVID-19_plans

⁸¹ <https://www.irishtimes.com/news/crime-and-law/domestic-violence-reports-up-30-in-some-areas-since-lockdown-says-garda-1.4238362>

⁸² http://www.justice.ie/en/JELR/Pages/Information_regarding_the_Justice_Sector_COVID-19_plans

Policing measures

Following the announcement of restrictions by An Taoiseach, the Garda Síochána launched a major nationwide policing operation from 7pm on Friday 27 March to 7pm on Monday 30 March. The operation involved thousands of Gardaí undertaking high visibility patrolling on foot, bike and roads⁸³ to support public compliance and take enforcement actions where required.

A second major nationwide operation – Operation Fanacht- was carried out over the Easter weekend to ensure compliance with travel restrictions. During the course of the operation, over 2,500 Garda members were involved in checkpoints or high visibility patrolling at any one time, including: 150 permanent checkpoints on major routes, over 500 shorter and mobile checkpoints, and a large number of high visibility patrols at popular locations including parks, beaches and beauty spots⁸⁴.

As of 25 April 2020, the Garda Síochána recorded 76 incidents⁸⁵ where new enforcements powers were used since their introduction on 08 April⁸⁶. In general, recorded incidents resulted in arrest for repeated refusal to comply with public health measures. Over the same period, 760 arrests were made under long-standing legislation in relation to COVID-19 enforcement. These incidents ‘started as potential breaches of the regulations, but during the incidents other offences were disclosed.’ This included public order, assault and road traffic offences⁸⁷.

The Garda Síochána ordered 16,000 ‘spit hoods’ at the start of the restrictions and as of 25 April, they had been used 15 times⁸⁸. The Policing Authority expressed concerns over the introduction of the hoods and their use has been condemned by human rights groups⁸⁹. The Policing Authority will monitor the use of the hoods alongside their assessment of the force’s response to the pandemic.

Easing the lockdown

On the 01 May, the Government published their ‘Roadmap for reopening business and society’, which sets out the five stage plan for lifting the country’s COVID-19 restrictions⁹⁰. Under current plans the fifth phase would be implemented on 10 August, but the

⁸³ <https://www.garda.ie/en/about-us/our-departments/office-of-corporate-communications/press-releases/2020/march/COVID-19-%E2%80%93-an-garda-siochana-begins-major-policing-operation-in-support-of-public-compliance-of-public-health-measures.html>

⁸⁴ http://www.justice.ie/en/JELR/Pages/Information_regarding_the_Justice_Sector_COVID-19_plans

⁸⁵ Only cases of actual enforcement of the specified powers are recorded as crime incidents.

⁸⁶ <https://www.irishtimes.com/news/crime-and-law/coronavirus-garda%C3%AD-have-made-76-arrests-for-breaches-of-lockdown-regulations-1.4240136>

⁸⁷ <https://www.irishtimes.com/news/crime-and-law/arrests-under-COVID-19-legislation-more-than-quadruple-in-a-week-1.4234307>

⁸⁸ <https://www.irishtimes.com/news/crime-and-law/coronavirus-garda%C3%AD-have-made-76-arrests-for-breaches-of-lockdown-regulations-1.4240136>

⁸⁹ <https://www.irishtimes.com/news/crime-and-law/arrests-under-COVID-19-legislation-more-than-quadruple-in-a-week-1.4234307>

⁹⁰ <https://www.gov.ie/en/publication/dd26a8-easing-the-covid-19-restrictions-on-10-august/>

Government has been keen to stress that that each stage will only come into effect on the advice of the National Public Health Emergency Team. The fifth stage does not amount to an end of all restrictions.

Italy

Main points

- People leaving their homes are required to fill in a self-declaration form
- Individuals who are found to be away from their homes without any reasonable excuse can be fined between 400 and 3,000 euros
- In some cases, individuals have been charged with criminal offences
- The police have set up checkpoints
- Helicopters and drones used to monitor population's movements
- A contact-tracing app is being developed
- There have been claims that the new lockdown regulations are unconstitutional, giving too much power to the president who is bypassing Parliament's scrutiny of the new decrees
- Phase 2 started on 4 May, with some businesses reopening and people being allowed to visit family

The lockdown

Italy announced a nation-wide lockdown on 11 March. The original lockdown included⁹¹:

- school closures
- a ban on leaving one's *comune* (Italian municipality), apart from health or work reasons
- a closure of all parks and public green spaces
- a ban on visiting second homes
- a halting of all non-essential production and businesses
- ports closures

⁹¹ <http://www.governo.it/it/articolo/decreto-iorestoacasa-domande-frequenti-sulle-misure-adottate-dal-governo/14278>

Outdoor physical activity was only allowed if carried out in proximity to one's home. The new April 10 Decree extended the lockdown measures for containing the coronavirus pandemic until 03 May, as well as announcing the reopening of some businesses like bookstores⁹².

During the first phase of the lockdown, people could only travel for:

- urgent, proven work-related reasons
- health reasons
- situations of special need (buying food, urgent family matters)

Policing the lockdown

In all cases, these reasons had to be verifiable by the police. People were being encouraged to pre-emptively fill in a self-declaration document where they state the reason why they are leaving their house; alternatively, such forms would be provided by the police if and when the person was stopped. A doctor's or employer's note may also have been required⁹³. Providing false information in the self-declaration document is an offence which entails immediate reporting to the judicial authorities⁹⁴.

Police forces⁹⁵ and *carabinieri* (a military force which carries out policing duties similar to the police) have been deployed to ensure lockdown measures are being followed. Individuals who are found to be away from their homes without any reasonable excuse can be fined between 400 and 3,000 euros. In some cases, individuals have been charged with criminal offences. If individuals who are supposed to be in self-isolation because they have tested positive for coronavirus are found outside their homes, they can be sentenced to between one and five years in jail. Businesses which are found not to be following government's guidance around social distancing measures can be ordered to close for up to 30 days⁹⁶.

The police set up checkpoints, especially on roads outside of major cities, to check who is leaving and why. They have also been using drones and helicopters⁹⁷. Between 11 March and 27 April, 10.861.031 people and 4.232.309 businesses had undergone checks by the police⁹⁸.

⁹² <https://www.esteri.it/mae/it/ministero/normativaonline/decreto-iorestoacasa-domande-frequenti/faqs-on-the-italian-government-s-imstayinghome-decree.html>

⁹³ <https://www.poliziadistato.it/articolo/165e66704c97dbc404704043>

⁹⁴ <https://www.esteri.it/mae/it/ministero/normativaonline/decreto-iorestoacasa-domande-frequenti/faqs-on-the-italian-government-s-imstayinghome-decree.html>

⁹⁵ There are seven national forces and two layers of local force – they have different powers and different ways of operating. Most of the enforcement has been with the municipal police (Dr Peter Neyroud, correspondence).

⁹⁶ <https://www.lavoroediritti.com/governo/coronavirus-sanzioni-regole>

⁹⁷ https://www.ilsole24ore.com/art/coronavirus-pasquetta-droni-e-posti-blocco-stanare-chi-tenta-eludere-controlli-ADN15wJ?refresh_ce=1

⁹⁸ <https://www.interno.gov.it/it/notizie/oltre-15-milioni-controlli-tutto-territorio-nazionale>

Army involvement

The Army has also been involved, mostly to support other bodies involved in the emergency response to COVID-19, for example by assisting with the building of hospitals and with handling deaths. A number of army officers are also patrolling cities in support to the police forces, and Army medical staff has been redeployed to civilian hospitals.⁹⁹ Notably, on 19 March, the Army was deployed to the city of Bergamo, the worst hit Italian city by the coronavirus, as the local authorities could no longer process the number of dead residents. Army trucks transported bodies to crematoriums in several other cities, as cemeteries in the city were full. To date, the Army has not been required to help enforce restrictions.

Technology

As part of its Phase 2, Italy is currently developing a voluntary contact tracing app, called *Immuni*, which has however raised a number of concerns around privacy and anonymity. Recently, the government has re-iterated that the app will respect privacy laws and that it will only be operative during the emergency. It is expected that *Immuni* will be available for download by the end of May.¹⁰⁰

Controversies

There have been a number of high-profile cases in which individuals claimed they had been fined without a good cause, or that the police reacted disproportionately. There has been mounting pressure from the Government's opposition to 'reinstate all the civil liberties guaranteed by the Constitution' during Phase 2, claiming that some of the measures taken by the Italian Government during the lockdown have been unconstitutional¹⁰¹. Such claim is based on the fact that the President of the Council of Ministers, currently Giuseppe Conte, has been issuing so-called Decrees of the President (DPCM). These were made executive without parliamentary debate and without their transformation into law, and hence without public scrutiny as the Constitution mandates¹⁰².

Easing the lockdown

Italy has announced Phase 2 will begin on 4 May. This will allow people to start socialising with individuals they have a close relationship with, including partners and relatives, and people will be able to exercise outdoors alone. Individuals leaving their homes will still be required to fill in a new version of the self-declaration form. Building sites and some factories which had previously been closed have now started reopening too. It has been announced that non-essential shops will start reopening on 18 May, and that businesses such as hairdressers and restaurants will reopen at the start of June, but will need to strictly adhere to social distancing measures. Some regions, such as Veneto and Calabria,

⁹⁹ http://www.difesa.it/Primo_Piano/Pagine/Emergenza-Coronavirus-IEsercito-contribuisce-alla-sicurezza-del-Paese.aspx

¹⁰⁰ <https://www.agendadigitale.eu/cultura-digitale/immuni-come-funziona-lapp-italiana-contro-il-coronavirus/>

¹⁰¹ https://www.repubblica.it/politica/2020/04/29/news/coronavirus_fase_due_mozione_della_minoranza_stop_dpcm_ripristinare_liberta_-255175716/

¹⁰² <https://www.tni.org/en/article/italy-democracy-and-COVID-19>

have deviated from national policies and have already lifted some further lockdown measures¹⁰³, reflecting the varying infection rates across Italy's regions. Checks carried out by the police will continue in Phase 2, with some areas having announced an increased police presence on major roads¹⁰⁴ and on public transport¹⁰⁵, and the use of drones to prevent people from gathering outside¹⁰⁶.

France

Main points

- Fines for individuals not respecting the lockdown amount to 135 euros, or 200 euros for those caught a second time; after three infractions, individuals can be charged with a crime (and sent to prison)
- Checkpoints set up around the country
- People in France are required to fill in a self-declaration form each time they leave their house
- There have been repeated clashes with the police, which seem to be motivated by the lockdown's harsh impact on people from lower socio-economic backgrounds and Minority Ethnic communities
- The French government is developing a contact-tracing app
- The lockdown will be eased from 11 May

¹⁰³ https://www.ansa.it/sito/notizie/politica/2020/04/27/coronavirus-litalia-verso-la-fase-2-fra-cautele-e-polemiche_1faa2a81-9e44-4e67-b733-0e0e0dc1177e.html

¹⁰⁴ <https://mattinopadova.gelocal.it/padova/cronaca/2020/04/30/news/coronavirus-fase-2-maxi-piano-di-controlli-della-polizia-stradale-di-padova-1.38789215>

¹⁰⁵ <https://www.agenzianova.com/a/5eab21432f3234.16256202/2918784/2020-04-30/trasporti-per-fase-2-a-roma-forze-ordine-e-polizia-locale-a-capolinea-e-lungo-itinerari>

¹⁰⁶ https://napoli.repubblica.it/cronaca/2020/04/30/news/coronavirus_fase_2_a_napoli_droni_alla_polizia_locale_per_evitare_assembramenti-255252531/

The lockdown

On 16 March, President Emmanuel Macron said the country was effectively ‘at war’ as he announced a 15-day lockdown, which was consequently extended until 11 May. At the time of the announcement, 100,000 police officers were mobilised to enforce the lockdown¹⁰⁷. Fixed checkpoints were set up across the country¹⁰⁸. Only trips to supermarkets, pharmacies and places of work were allowed and all workers were told to work from home where possible¹⁰⁹. Paris banned daytime lone exercise on 7 April.¹¹⁰

Policing the lockdown

Fines for individuals not respecting the lockdown amount to 135 euros, or 200 euros for those caught a second time. After three infractions, individuals can be charged with a crime (and have been sent to prison).¹¹¹ On 23 April, it was reported that a total of 915,000 fines had been issued since the beginning of the coronavirus lockdown¹¹².

People in France are required to fill in a self-declaration form, which can also be filled in via a mobile app, each time they leave their house, in order to prove their travel is justified in accordance with the government’s travel exceptions (for example, for work-related reasons, or for grocery shopping). As of 3 April, 5.8 million people had been stopped and asked to show the form.¹¹³

During the Easter weekend, Checkpoints were set up on all major roads and motorways out of towns and cities with orders to turn back those attempting to break the rules, with an extra 60,000 police officers joining the 100,000 already on duty¹¹⁴.

Clashes with the police

There have been repeated clashes with the police in various French cities, especially in Paris’ suburbs which were prone to unrest prior to COVID-19. These current episodes seem to be motivated by the lockdown’s harsh impact on people from lower socio-economic backgrounds and Minority Ethnic communities. Among a number of incidents, a

¹⁰⁷ There are two national police agencies – the Police Nationale are responsible for most urban policing but are supported by Polices Municipales in most cities and towns. Outside the cities the policing is done by the Gendarmerie, who come under the Ministry of Interior. The Police Nationale and Gendarmerie usually operate very differently (Dr Peter Neyroud and Jacques De Maillard, correspondence).

¹⁰⁸ <https://www.independent.co.uk/news/world/europe/coronavirus-france-lockdown-cases-update-COVID-19-macron-a9405136.html>

¹⁰⁹ <https://www.gouvernement.fr/info-coronavirus>

¹¹⁰ <https://www.bbc.co.uk/news/world-europe-52202700>

¹¹¹ <https://www.independent.co.uk/news/world/europe/coronavirus-france-fines-update-christophe-castaner-a9440146.html>

¹¹² <https://www.thelocal.fr/20200423/french-police-hand-out-over-900000-in-lockdown-fines-including-to-holiday-home-owners>

¹¹³ <https://www.interieur.gouv.fr/Actualites/L-actu-du-Ministere/Attestation-de-deplacement-et-de-voyage>

¹¹⁴ <https://www.theguardian.com/world/2020/apr/03/coronavirus-not-on-holiday-france-warns-citizens-against-easter-travel>

primary school was partially destroyed by fire in a north-west suburb of Paris and police in another district said fireworks had been aimed at them. The incidents led the Paris police prefecture to ban the purchase or possession of fireworks in the city and three surrounding departments until 27 April.¹¹⁵ Interior Minister Castaner told the Senate that the authorities had coordinated operations every evening for the past few weeks in 'sensitive neighbourhoods' in Seine-Saint-Denis, one of the areas worst affected by coronavirus-related deaths. He said there had been 220,000 checks and 38,000 fines in these areas -- 'about twice the national average in terms of police controls.' Castaner said in the Senate that there had been 'ambushes' on police, which he condemned 'in the strongest possible terms'¹¹⁶.

Technology

The French government is also developing a contact-tracing app, which will be voluntary and anonymise users' data. However, a published document reveals there would be ways to 're-identify users or to infer their contact graphs' if desired. There have been some issues between France and Apple and Google during the development of the app, as Apple currently does not allow the app to run in the background. French lawmakers are due to vote on whether to proceed with the app.¹¹⁷

Easing the lockdown

France will start easing the lockdown from 11 May if new cases stay below 3,000 a day. Face masks will be made compulsory on public transport and in secondary schools. Schools will reopen gradually, while employees who can work from home will be asked to keep doing so. Non-essential shops will reopen on 11 May, but not bars and restaurants. People will be able to go outside again without the self-declaration form, and public gatherings of up to 10 people will be allowed^{118, 119}.

¹¹⁵ <https://www.theguardian.com/world/2020/apr/22/disruption-france-virus-lockdown-tensions-rise-motorbike-police>

¹¹⁶ <https://edition.cnn.com/2020/04/26/europe/coronavirus-france-inequality-intl/index.html>

¹¹⁷ <https://www.bbc.co.uk/news/technology-52366129>

¹¹⁸ <https://www.bbc.co.uk/news/world-europe-52459030>

¹¹⁹ <https://news.sky.com/story/coronavirus-france-reveals-plans-to-ease-COVID-19-lockdown-measures-11980124>

Germany

Main points

- While all federal states have issued rules to limit social contact, these vary from State to State, and so do fines
- More than 100 protesters were arrested on Saturday 25 April for a demonstration against the lockdown
- In some German states, the police are monitoring compliance to the lockdown through the use of drone
- Germany is due to unveil a contact-tracing app
- Lockdown regulations have started to be eased, but people are still being urged to stay at home
- There has been confusion over new rules making the wearing of face masks compulsory

Legislation

All federal states have issued rules to limit social contact, which will remain in effect at least until 03 May 2020. Essential businesses remain open, and, according to the decision of 15 April, shops with an area of up to 800m² may re-open, as may car dealers, bicycle shops and book shops, irrespective of their size. Hairdressers may begin preparing to re-open from 4 May. Other establishments such as restaurants, clubs, and bars remain closed. All large-scale events have been banned until at least 31 August 2020. The use of cloth masks is now mandatory on public transport and, in most regions, within shops. The rules vary among the 16 German states - Bavaria being the strictest, while in Berlin shoppers do not have to wear masks. Individuals are permitted to be outside with one other person who does not live in their household, and can leave home only for essential reasons and for exercise. Only people living in the same household may travel together in a car¹²⁰.

Policing the lockdown

Policing in Germany is run at the state level, and all states have operated slightly differently when it comes to enforcing the rules. Generally, violations can be prosecuted, but fines vary according to the state.

It is possible to cross the land borders with Austria, France, Luxembourg, Denmark and Switzerland only at designated border crossing points, but travellers with no valid need for travel will not be permitted to enter/leave the country at the borders listed¹²¹.

¹²⁰ <https://www.bmi.bund.de/SharedDocs/faqs/EN/topics/civil-protection/coronavirus/coronavirus-faqs.html>

¹²¹ <https://www.bmi.bund.de/SharedDocs/faqs/EN/topics/civil-protection/coronavirus/coronavirus-faqs.html>

Social tensions

Earlier in April, Germany's constitutional court ruled that citizens have the right to hold political protests as long as they adhere to social distancing rules¹²². In Berlin, more than 100 protesters were arrested on Saturday 25 April for a demonstration against the lockdown. The protesters handed out newspapers entitled 'Democratic Resistance', which said the new coronavirus is an attempt to seize power by spreading fear. The papers quoted 127 doctors from around the world who question the need for strict lockdowns¹²³.

Technology

In some German states, the police are monitoring compliance to the lockdown through the use of drones, which are also used to issue health warnings via loudspeaker. In many German states, the police are using more traditional ways to monitor lockdown compliance, for example using vehicles with loudspeakers to patrol streets and point out the restrictions, and helicopters. Some states have said they would not be using drones, possibly due to privacy concerns¹²⁴.

Germany is due to unveil a contact-tracing app, amongst concerns around privacy and data protection¹²⁵. This comes after the Government launched an app to monitor vital signs from volunteers wearing smartwatches or fitness trackers - including pulse, temperature and sleep - to analyse whether people are symptomatic¹²⁶.

Easing the lockdown

Some states have already reopened schools, but Angela Merkel decided to postpone a decision on when to fully restart schools, day-care centres and sports clubs until 6th May¹²⁷. However, as the lockdown has been eased, the virus reproduction rate has started increasing again. People are still being asked to stay at home as much as possible¹²⁸. As wearing masks when visiting shops and travelling on public transport has now been made compulsory in all German states, fines of between 25 and 10,000 euros can be imposed on those who fail to wear a mask, with rates differing widely across the country. But car drivers were warned not to wear coverings that completely disguise their faces or risk a 60 euros fine, so they can still be recognised by speed cameras and police surveillance¹²⁹. Similar confusion has been raised by activists planning May Day protests, as the recent advice on face masks is at odds with German law, which makes it illegal to cover one's

¹²² <https://www.theguardian.com/world/2020/apr/29/mask-dilemma-for-police-in-germany-as-may-day-activists-cover-up>

¹²³ <https://uk.reuters.com/article/us-health-coronavirus-germany-protests/i-want-my-life-back-germans-protest-against-lockdown-idUKKCN2270RD>

¹²⁴ <https://www.thelocal.de/20200414/german-police-deploy-drones-to-monitor-coronavirus-restrictions>

¹²⁵ <https://www.ft.com/content/32b6a360-3e22-47a3-ace5-60f42cc6b42d>

¹²⁶ <https://uk.reuters.com/article/uk-health-coronavirus-germany-tech/germany-launches-smartwatch-app-to-monitor-coronavirus-spread-idUKKBN21P1SN>

¹²⁷ <https://www.ft.com/content/dfd893d5-40a0-4645-87fb-471b0f5e7ad0>

¹²⁸ <https://www.bbc.co.uk/news/world-europe-52439926>

¹²⁹ <https://www.theguardian.com/world/2020/apr/27/germans-could-be-fined-up-to-10000-for-not-wearing-face-masks-coronavirus>

face while participating in a public gathering, such as a strike or a political demonstration, so as to prevent identification by the police¹³⁰. Germany is also planning to introduce a legal right to work from home after the pandemic¹³¹.

Spain

Main points

- Individuals who are found by the police to be away from their homes without any of the reasons above can be fined 601 euros
- The enforcing of the lockdown regulations is based on the so-called 'gag law' which has been criticised as it is seen as infringe on people's rights to protest and on free speech
- The Spanish Ombudsman has launched an investigation into whether fines are being issued correctly and proportionately
- The Spanish Police¹³² are also using drones to enforce movement restrictions
- A geolocalisation app is currently being developed
- Spain has announced it will relax its confinement measures on 9 May

Legislation

The Spanish Government announced a state of alarm from 14 March over all of the country. Under the state of alarm, the central government in Madrid has all powers. All security forces, including local and regional police forces, are under direct orders of Ministry of Interior. Under the state of alarm, individuals can leave their homes only:

- to purchase essential items
- to attend health centres
- to go to work
- to return to one's usual residence
- for caring reasons
- in cases of force majeure or of necessity
- any other activity that is, by its nature, justified

All businesses which are deemed non-essential are also closed¹³³

¹³⁰ <https://www.theguardian.com/world/2020/apr/29/mask-dilemma-for-police-in-germany-as-may-day-activists-cover-up>

¹³¹ <https://www.thetimes.co.uk/article/germans-set-to-be-given-legal-right-to-work-at-home-zrhptx0pm>

¹³² There are different layers of Spanish police, but increasing centralisation during the pandemic

¹³³ <https://english.elpais.com/society/2020-03-15/spains-state-of-alarm-the-key-measures-that-are-now-in-place.html>

Policing the lockdown and human rights concerns

Individuals who are found by the police to be away from their homes without any of the reasons above can be fined 601 euros. If the officers believe that the offender has 'belittled' them, this can rise to 2,000 euros. In some cases, individuals can also be arrested. This is based on the Citizen Security Act, dubbed 'the gag law'. Since its introduction in 2015, the Act has generated criticism from lawyers, NGOs and political parties, especially concerning Article 36.6, which increases punishment in cases of serious lack of obedience to agents. Amnesty International has been denouncing the Act's 'arbitrary application' for years, arguing it has been used to sanction protest participants and journalists. Some argue that the law gives too much power to agents and that there is no mechanism for control and accountability. The Spanish Ombudsman has launched an investigation into whether fines are being issued correctly and proportionately. As of 25 April, more than 740,000 sanctions have been issued since the state of alarm was declared¹³⁴.

Army involvement

The Army has been assisting with various tasks, including medical help from the Army's doctors and nurses, and setting up makeshift hospitals¹³⁵.

Technology

The Spanish Police are also using drones to enforce movement restrictions, with police officers asking citizens to remain home through them via radio¹³⁶.

Spain is also currently developing a geolocalisation app. It will start mass serological testing¹³⁷ on 36,000 households through a survey carried out by the Spanish Office for National Statistics.

Easing the lockdown

Spain has announced it will relax its confinement measures on 09 May, while children have been allowed to go outside from 27 April. A 'plan for the transition to a new normal' was presented on 28 April¹³⁸, with the Interior Minister announcing that: "The de-escalation will require more discipline than confinement"¹³⁹.

¹³⁴ <https://elpais.com/espana/2020-04-25/tantas-multas-propuestas-en-el-confinamiento-como-impuestas-en-cuatro-anos-de-ley-mordaza.html>

¹³⁵ <https://www.politico.eu/article/catalonia-requests-spanish-armys-help-to-fight-coronavirus/>

¹³⁶ <https://www.bbc.co.uk/news/av/world-europe-51900325/coronavirus-please-stay-at-home>

¹³⁷ Serological is the scientific study of serum and other body fluids. Serological testing refers to the diagnostic identification of antibodies in the serum.

¹³⁸ https://elpais.com/sociedad/2020/04/28/actualidad/1588099170_587777.html

¹³⁹ <https://elpais.com/sociedad/2020-04-29/ultima-hora-del-coronavirus-en-espana-y-el-mundo-en-directo.html>

Sweden

Main points

- No real lockdown in place, only guidelines around social distancing and a ban on public gatherings with more than 50 participants
- Although the Swedish police did not have a strong role in enforcing lockdown, they have had an important role identifying where large gatherings posed a risk
- Anyone who organises an event that violates the ban may be fined or jailed for a maximum of six months
- Social distancing is being encouraged through innovative and creative ways

Unlike the rest of Europe, Sweden has decided against enforcing a lockdown, with restaurants, bars, and clubs remaining open. Customers need to be kept at a safe distance from each other. Businesses which do not comply with the regulations can be ordered to close.

While non-essential travel is banned, people have no limit on how many times they can leave their homes. Restrictions include a ban on public events of more than 50 people, a ban on visits to elderly care homes, and recommendations to close schools for over-16s and universities. Employees have been asked to work from home if possible. The police can cancel or dissolve a public gathering or public event with more than 50 participants¹⁴⁰. Anyone who organises an event that violates the ban may be fined or jailed for a maximum of six months¹⁴¹.

There have been reports of social distancing being encouraged in innovative and unusual ways, with the city of Lund dumping a tonne of chicken manure in its central park in a bid to deter residents from gathering there for traditional celebrations on 30 April¹⁴².

Sweden has imposed a ban on foreigners trying to enter the country, with the exception of certain categories of key workers and of foreigners who are residents or have Swedish citizenship – as of 17 April, 60 foreigners had been stopped at the border¹⁴³.

¹⁴⁰ <https://www.folkhalsomyndigheten.se/the-public-health-agency-of-sweden/communicable-disease-control/COVID-19-new-legislation-for-restaurants-bars-etc/>

¹⁴¹ <https://www.krisinformation.se/detta-kan-handa/handelser-och-storingar/20192/myndigheterna-om-det-nya-coronaviruset/restriktioner-och-forbud?fbclid=IwAR3A0HcBfI90bAMsHVmkBtS9wGHf9BnP2qb1CfR483PDacarYYmQyCRWb3M>

¹⁴² <https://www.theguardian.com/world/2020/apr/29/swedish-city-lund-dump-tonne-chicken-manure-park-deter-visitors-coronavirus-lockdown>

¹⁴³ <https://www.thelocal.se/20200417/swedens-coronavirus-restrictions-to-stay-in-place-for-a-long-time>

New Zealand

Main points

- New Zealand has utilised a four level alert system to respond to COVID-19, describing the levels broadly as 'prepare, reduce, restrict, and lockdown'
- New Zealand spent a month from 26 March to 27 April on full lockdown, which required all people stay home except for essential movement, 2 metre distancing everywhere outside of the home, and all non-essential businesses and workplaces closed. They have since moved back down to level 3, which reopens businesses that can operate without customer contact, and schools for some students, but personal movement still remains restricted
- Under existing legislation, police are empowered to use any reasonable means including force to ensure compliance with orders made under emergency health regulations. Fines can range up to \$4000, and imprisonment up to six months
- Policing has aimed to utilise engagement and encouragement before moving to enforcement. So far, the majority of recorded breaches have resulted in a warning only
- Police have made a concerted effort to be more visible in communities, through measures like reassurance checks, road check points, and increased community patrols
- Police set up a new service via their non-emergency number and a web portal for the public to report incidents of people breaching the restrictions

The lockdown

New Zealand has utilised a four level alert system to respond to COVID-19¹⁴⁴. On 26 March, alert level 4 'lockdown' was activated, introducing a range of measures for everyone including:

- Staying at home, except for essential personal movement
- Physical contact with own household only (their bubble)
- Recreational exercise restricted to local area, solitary or with household members
- Businesses closed except for essential services and lifeline utilities
- Educational facilities closed
- Travel severely limited
- All public venues closed and gatherings cancelled
- Two meter physical distancing

¹⁴⁴ <https://covid19.govt.nz/assets/resources/tables/COVID-19-alert-levels-summary.pdf>

On 27 April, New Zealand moved to alert level 3 'restrict', with the situation to be reviewed on 11 May. Under level 3 much of the above restrictions remain but the following is now permitted:

- Household bubbles can be expanded to reconnect with close family, caregivers or to support isolated people. Bubbles should be exclusive, small and local
- Businesses can open premises subject to compliance but cannot physically interact with customers
- Schools (years 1 to 10) and Early Childhood Education centres can safely open, but with limited capacity and physical distancing. Children should still learn at home if possible
- Some inter-regional travel permitted but personal travel still restricted to local areas

Legislation

On 25 March 2020, Prime Minister Jacinda Ardern declared a State of National Emergency under the Civil Defence Emergency Management Act 2002 (CDEM). The position is reviewed weekly and to date has been continuously extended. The state of emergency allows the use of special powers by Medical Officers of Health in accordance with s70 of the Health Act 1956 for the purposes of preventing the outbreak and spread of COVID-19.

Police powers

The above two pieces of legislation- CDEM Act 2002 and s70 of the Health Act 1956- provide the Police with legal basis for additional powers. The Health Act legislation provides the following¹⁴⁵:

- Police may do anything reasonably necessary (including the use of force), to compel, enforce, or ensure compliance with a requirement in Health Act orders (s70A(1)(e))
- Police may stop and inspect any vehicle, and enquire into the purpose of travel under s 71A(2) to ensure people are not travelling in breach of the Health Act orders
- Police have a power to enter, remain and inspect premises (s 71A(2)) if they have reasonable grounds to believe actions or gatherings are occurring in those premises that are not consistent with the Health Act orders
- Police have the authority to establish checkpoints at the discretion of the District Commander to stop vehicles to establish compliance with the Health Act Order

Penalties for failing to comply can include up to six months imprisonment and/or a \$4,000 fine (approx. £1,950¹⁴⁶).

¹⁴⁵ <https://www.Police.govt.nz/sites/default/files/publications/operational-policing-guidelines-04-04-2020.pdf>

¹⁴⁶ Based on 27 April 2020 exchange rates.

The powers in the CDEM Act complement the above. They include¹⁴⁷:

- Police may enter any premises or place if they believe the action is necessary to save life, prevent injury, remove endangered persons or to carry out an urgent measure for relief of suffering/distress (s87).
- Police may totally or partially prohibit or restrict public access, with or without vehicles, to any road or public place to prevent or limit the spread of the emergency (s88).
- Police may direct any person to stop any activity that may cause or substantially contribute to an emergency (s91)
- Police may request any person, either verbally or in writing, to take any action to prevent or limit the extent of the emergency (s91)

The enforcement of these additional powers relies heavily on the discretion of Police officers. This was subject of some concern amongst members of the Epidemic Response Committee, heightened by initial inconsistent messaging and application of the powers¹⁴⁸. At a suggestion of the Committee, New Zealand Police published its operating guidance for alert level [4](#), and they have now also published their level [3](#) guidance.

Policing approach

In line with the approaches adopted in the UK and Ireland, New Zealand Police have stressed the necessity to maintain public support and for their actions to be seen as legitimate, proportionate and aligned with the intent of the restrictions. The upholding of these principles is seen as crucial as the country adjusts to level 3¹⁴⁹. Police issued a number of public appeals during the level 4 restrictions and during the transition to level 3, urging the public to familiarise themselves with the restrictions.

The police have adopted a gradual approach to policing COVID-19:

- **Engage** with the parties and communicate with them to identify whether their current behaviour or activities are contrary to the government's response to COVID-19
- **Educate** them on the current requirements (if necessary) to correct their behaviour or activities
- **Encourage** compliance with measures if required

¹⁴⁷ <https://www.Police.govt.nz/sites/default/files/publications/operational-scenarios-and-guidelines-for-alert-level-3.pdf>

¹⁴⁸ Inquiry into the Government response to COVID-19: Epidemic Response Committee 2nd April 2020

¹⁴⁹ <https://www.Police.govt.nz/sites/default/files/publications/operational-scenarios-and-guidelines-for-alert-level-3.pdf>

- **Enforcement** –warnings or prosecutorial measures. Warnings are the preferred option with arrest only to be used as a last resort

For the transition to alert level 3, the approach was amended in police guidance to separate out ‘warn’ and ‘enforcement’ into individual steps, distinguishing the New Zealand model from Ireland and the UK’s:

- **Warn** – only where evidence of education exists and when offences are repeated or are sufficiently serious
- **Enforcement** – only resort to prosecutorial measures if absolutely necessary¹⁵⁰

Public opinion data would appear to suggest that the adopted policing approach has translated into higher levels of public satisfaction with the police. In addition, levels of public trust and confidence are as high as they were following the March 2019 Christchurch terrorist shootings¹⁵¹. As with other jurisdictions, the police anticipated that the restrictions would impact on crime levels. In particular domestic abuse was forecast to increase and has been prioritised by the police, with pre-COVID resourcing levels maintained.

Policing Measures

As of 27 April 2020, New Zealand Police had recorded 5,857 breaches of the level 4 restrictions. The vast majority (5,303) were under the Health Act whilst 554 breaches were under the CDEM Act¹⁵². As shown in Table 1, for both Acts, the vast majority of breaches resulted in warnings.

Table 1: Level 4 Breaches 26 March-27 April 2020

	Prosecution	Warnings	Youth Referrals	Total
Health Act	589	4,548	166	5,303
CDEM Act	40	493	17	554

A district level breakdown, shows considerable variation in the number of breaches and the use of available enforcement actions in respect to both legislative Acts¹⁵³.

The police have sought to be more visible in communities than usual, interacting with people to ensure they are complying with the restrictions. During level 4, police undertook

¹⁵⁰ <https://www.Police.govt.nz/sites/default/files/publications/operational-scenarios-and-guidelines-for-alert-level-3.pdf>

¹⁵¹ Provided by Mark Evans, New Zealand Police.

¹⁵² https://www.Police.govt.nz/sites/default/files/news_downloads/alert_level_4_district_enforcement_numbers_0.pdf

¹⁵³ https://www.Police.govt.nz/sites/default/files/news_downloads/alert_level_4_district_enforcement_numbers_0.pdf

tens of thousands of reassurance checks and community patrols¹⁵⁴. The police have been highly visible on the roads, with checkpoints set up to prohibit non-essential travel. The use of checkpoints was stepped up over the Easter and Anzac weekends, especially around holiday hotspots¹⁵⁵. Visible policing will continue during level 3 restrictions but it was suspected that the focus might shift to targeting group gatherings¹⁵⁶.

Technology

Police had received criticism of their ability to ensure people returning from abroad complied with self-isolation¹⁵⁷. Initially, police had intended to visit people who had returned from overseas into 'non-managed self-isolation' within three days to ensure compliance. But unable to meet this target (at 01 April 4,068 people were in non-managed self-isolation), they developed an opt-in text-messaging service to ease the burden on resources. People were sent a link which would allow the police to track their location if activated. Those who did not respond were prioritised by the police for visits and phone calls. The police also had a presence at hotels where returning citizens under 'managed self-isolation' are located¹⁵⁸.

A police web portal was set up to enable the public to report incidents of people breaking the restrictions. Over 4,000 reports were submitted online within the first two days, the majority of which did not require a Police response¹⁵⁹. In addition, the police set up a new phone service via their non-emergency number for people to report breaches. In total, the police received 53,487 reports of breaches under level 4¹⁶⁰.

Easing the lockdown

As described above, New Zealand has adopted a [four level alert system](#) to restrictions. The levels are categorised as:

1. Prepare
2. Reduce
3. Restrict
4. Lockdown

¹⁵⁴ <https://www.Police.govt.nz/news/release/public-urged-continuing-following-rules-alert-level-3?ref=/news&search=&cmin=&cmax>

¹⁵⁵ <https://www.Police.govt.nz/news/release/Police-urge-public-maintain-alert-level-4-anzac-weekend?ref=/news&search=&cmin=&cmax>

¹⁵⁶ https://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=12326199

¹⁵⁷ Prior to the boarder closing, New Zealanders returning from overseas were required to enter quarantine, managed self-isolation or non-managed self-isolation

¹⁵⁸ Inquiry into the Government response to COVID-19: Epidemic Response Committee 2nd April 2020

¹⁵⁹ <https://www.theguardian.com/world/2020/mar/30/new-zealand-site-to-report-covid-19-rule-breakers-crashes-amid-spike-in-lockdown-anger>

¹⁶⁰ <https://www.police.govt.nz/about-us/publications-statistics/data-and-statistics/policedatanz>

New Zealand COVID-19 Alert Levels Summary

- The Alert Levels are determined by the Government and specify the public health and social measures to be taken in the fight against COVID-19. Further guidance is available on the [Covid19.govt.nz](https://covid19.govt.nz) website.
- The measures may be updated based on new scientific knowledge about COVID-19, information about the effectiveness of control measures in New Zealand and overseas, or the application of Alert Levels at different times (e.g. the application may be different depending on if New Zealand is moving down or up Alert Levels).

- Different parts of the country may be at different Alert Levels. We can move up and down Alert Levels.
- Essential services including supermarkets, health services, emergency services, utilities and goods transport will continue to operate at any level. Employers in those sectors must continue to meet health and safety obligations.
- Restrictions are cumulative (at Alert Level 4, all restrictions from Alert Level 2 and 3 apply).

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ELIMINATION STRATEGY – New Zealand is working together to eliminate COVID-19			
Alert Level	Risk Assessment	Range of Measures (can be applied locally or nationally)	
Level 4 – Lockdown Likely the disease is not contained	<ul style="list-style-type: none"> Community transmission is occurring. Widespread outbreaks and new clusters. 	<ul style="list-style-type: none"> People instructed to stay at home (in their bubble) other than for essential personal movement. Safe recreational activity is allowed in local area. Travel is severely limited. All gatherings cancelled and all public venues closed. 	<ul style="list-style-type: none"> Businesses closed except for essential services (e.g. supermarkets, pharmacies, clinics, petrol stations) and lifeline utilities. Educational facilities closed. Rationing of supplies and requisitioning of facilities possible. Reprioritisation of healthcare services.
Level 3 – Restrict High risk the disease is not contained	<ul style="list-style-type: none"> Community transmission might be happening. New clusters may emerge but can be controlled through testing and contact tracing. 	<ul style="list-style-type: none"> People instructed to stay home in their bubble other than for essential personal movement – including to go to work, school if they have to or for local recreation. Physical distancing of two metres outside home (including on public transport), or one metre in controlled environments like schools and workplaces. People must stay within their immediate household bubble, but can expand this to reconnect with close family / whānau, or bring in caregivers, or support isolated people. This extended bubble should remain exclusive. Schools (years 1 to 10) and Early Childhood Education centres can safely open, but will have limited capacity. Children should learn at home if possible. People must work from home unless that is not possible. Businesses can open premises, but cannot physically interact with customers. 	<ul style="list-style-type: none"> Low risk local recreation activities are allowed. Public venues are closed (e.g. libraries, museums, cinemas, food courts, gyms, pools, playgrounds, markets). Gatherings of up to 10 people are allowed but only for wedding services, funerals and tangihanga. Physical distancing and public health measures must be maintained. Healthcare services use virtual, non-contact consultations where possible. Inter-regional travel is highly limited (e.g. for essential workers, with limited exemptions for others). People at high risk of severe illness (older people and those with existing medical conditions) are encouraged to stay at home where possible, and take additional precautions when leaving home. They may choose to work.
Level 2 – Reduce The disease is contained, but the risk of community transmission remains	<ul style="list-style-type: none"> Household transmission could be occurring. Single or isolated cluster outbreaks. 	<ul style="list-style-type: none"> Physical distancing of one metre outside home (including on public transport). Gatherings of up to 100 people indoors and 500 outdoors allowed while maintaining physical distancing and contact tracing requirements. Sport and recreation activities are allowed if conditions on gatherings are met, physical distancing is followed and travel is local. Public venues can open but must comply with conditions on gatherings, and undertake public health measures. Health services operate as normally as possible. 	<ul style="list-style-type: none"> Most businesses open, and business premises can be open for staff and customers with appropriate measures in place. Alternative ways of working encouraged (e.g. remote working, shift-based working, physical distancing, staggering meal breaks, flexible leave). Schools and Early Childhood Education centres open, with distance learning available for those unable to attend school (e.g. self-isolating). People advised to avoid non-essential inter-regional travel. People at high risk of severe illness (older people and those with existing medical conditions) are encouraged to stay at home where possible, and take additional precautions when leaving home. They may choose to work.
Level 1 – Prepare The disease is contained in New Zealand	<ul style="list-style-type: none"> COVID-19 is uncontrolled overseas. Isolated household transmission could be occurring in New Zealand. 	<ul style="list-style-type: none"> Border entry measures to minimise risk of importing COVID-19 cases. Intensive testing for COVID-19. Rapid contact tracing of any positive case. Self-isolation and quarantine required. Schools and workplaces open, and must operate safely. Physical distancing encouraged. 	<ul style="list-style-type: none"> No restrictions on gatherings. Stay home if you're sick, report flu-like symptoms. Wash and dry hands, cough into elbow, don't touch your face. No restrictions on domestic transport – avoid public transport or travel if sick.

As of 27 April New Zealand is at alert level 3 and this will be reviewed on 11 May¹⁶¹. At the time of writing, the Government have not outlined longer-term plans for easing restrictions further.

¹⁶¹ <https://covid19.govt.nz/covid-19/restrictions/alert-system-overview/>

South Korea

Main points

- South Korea has taken a different approach to most countries. In March, schools, public amenities and other gathering places were closed, but no lockdown was imposed except for local curfews in some areas
- The South Korean response has primarily relied on technological solutions rather than legal ones. In particular they have focussed very early on mass production of tests and used of information and communications technology to test widely, perform contact tracing, and disseminate precise, quick information about local infection rates to people. This includes tracking individuals' movements using facial recognition in cctv, tracking bank transactions and mobile phone usage
- Apps are used to alert people to risks, and also to monitor their location if they are ordered into isolation. Fines may be issued for breaking quarantine, up to \$2500
- Although no names or addresses are given in public alerts about local infections, privacy concerns have been raised and some people have been publicly identified as a consequence of the alert apps
- Restrictions that were put in place have been easing since mid-April. The government has issued guidance on risk minimisation, and many facilities are reopening as long as they follow the guidance

Technology-driven response to the coronavirus

South Korea has taken a different approach from the majority of the countries analysed in this report. In March the government recommended that indoor sports, religious and entertainment facilities suspend operations. Schools were shut down, and a curfew was imposed in some areas, but no large-scale lockdown on South Koreans was imposed¹⁶².

Instead, the government focuses on mass producing coronavirus test kits earlier than many other hard-hit countries¹⁶³. And more importantly, the key to South Korea's response has been the use of information and communications technology to test widely, perform contact tracing, and disseminate information about the outbreak¹⁶⁴. The government communicates how many people are infected in each geographic area and city in real

¹⁶² <https://www.vox.com/COVID-19-coronavirus-world-international-response/2020/4/19/21226931/coronavirus-south-korea-new-infections-single-digits-relax-social-distancing>

¹⁶³ ibid

¹⁶⁴ <https://www.businessinsider.com/how-south-korea-controlled-its-coronavirus-outbreak-2020-4?r=US&IR=T>

time, constantly updating national and local government websites that track cases and the number of residents tested. This is done by tracking people's movements through:

- CCTV and face-recognition technology
- the tracking of bank card transactions
- the tracking of mobile phone usage¹⁶⁵

The government also developed free smartphone apps that send people emergency text alerts about infections in their local area. People ordered into self-quarantine must download another app, which alerts officials if a patient ventures out of isolation. Fines for violations can reach \$2,500¹⁶⁶. Apps are also being used to diagnose users with a cold or connecting them to a doctor by phone, where they can be screened for coronavirus symptoms and given a preliminary diagnosis. Another app gives users up-to-date information about the number and type of face masks currently available at any given store for purchase¹⁶⁷.

Privacy issues

Alerts tell South Koreans where an infected person has been, and when. No names or addresses are given, but some are still managing to identify people. The public has even decided two of the infected were having an affair¹⁶⁸.

The next phase

The Central Disaster and Safety Countermeasures Headquarters on 22 April announced the first draft of the government's 'basic guidelines for maintaining social distancing in daily life' that both individuals and social groups must follow under lifestyle quarantine. The government is due to review such guidelines on 5 May¹⁶⁹. Since mid-April, facilities have been allowed to restart operations as long as they comply with disinfection guidelines. In addition, the Korea Baseball Organization will be able to hold games again — albeit without an audience — and churches will also face fewer restrictions¹⁷⁰.

¹⁶⁵ <https://theconversation.com/coronavirus-south-koreas-success-in-controlling-disease-is-due-to-its-acceptance-of-surveillance-134068>

¹⁶⁶ <https://www.vox.com/COVID-19-coronavirus-world-international-response/2020/4/19/21226931/coronavirus-south-korea-new-infections-single-digits-relax-social-distancing>

¹⁶⁷ <https://www.businessinsider.com/how-south-korea-controlled-its-coronavirus-outbreak-2020-4?r=US&IR=T>

¹⁶⁸ <https://www.bbc.co.uk/news/world-asia-51733145>

¹⁶⁹ <http://www.korea.net/NewsFocus/policies/view?articleId=184842>

¹⁷⁰ <https://www.vox.com/COVID-19-coronavirus-world-international-response/2020/4/19/21226931/coronavirus-south-korea-new-infections-single-digits-relax-social-distancing>

USA

Main points

- Lockdown measures are in place across the US, but are primarily based on state-of-emergency or public-health-emergency responses at the State level, and thus both rules and policing vary by State
- Reports suggest policing approaches in most States are prioritising education and encouragement, and avoiding enforcement unless strictly necessary
- However, in some areas, enforcement is much more harsh, with high fines being issued, and judges making orders extending to ankle monitoring some people over breaches
- A number of jurisdictions have also experienced high profile backlash from police, and in some instances police leadership have indicated publicly that they do not intend to enforce lockdown laws
- There are some concerns about police safety, primarily due to a scarcity of PPE. Rates of illness absence in police forces is high, and some officers have died of COVID-19
- Over 20 States have had some public protests against lockdown measures, based largely on constitutional objections
- The direction and rate of change in lockdown measures is varying significantly by State. Some States have already begun to allow some or all non-essential businesses to reopen, including restaurants, and end or relax orders to stay at home. However others continue to extend measures, with California about to close all beaches in the State

The lockdown

In mid-March the White House declared a National Emergency in response to the Coronavirus, freed up over \$42 billion in resources for states and localities and issued new guidelines to help protect Americans during the global Coronavirus outbreak. These were initially presented as '15 days to slow the spread', but have since been extended to '30 days etc.' The guidelines recommend to:

- Listen to and follow the directions of the state and local authorities
- Stay home if people are sick
- Keep sick children at home

- Keep the entire household at home if someone within the household tested positive for Coronavirus
- Stay home and away from other people if you are old or a person with a serious underlying health condition

The guidelines also advised State Governors to take various measures. All states were told to halt social visits to nursing homes and retirement and long-term care facilities, and states with evidence of community transmission were told to close schools in affected and surrounding areas, as well as all bars, restaurants, food courts, gyms, and other indoor and outdoor venues where groups of people congregate¹⁷¹.

The measures and regulations imposed by states as a response to the coronavirus pandemic vary. By 16 March, every state had made an emergency declaration, with most taking the form of a State of Emergency or a Public Health Emergency. These allow governors to exercise emergency powers. States also imposed social distancing measures, including mandatory stay at home orders, closures of non-essential businesses, bans on large gatherings, school closures, and limits on bars and restaurants and other public places¹⁷².

Policing the lockdown

Policing tactics to enforce each state's regulations vary from state to state, but early reports suggested that, between the end of March and the beginning of April, police forces across the country were largely focusing on educating the public, with officers having rarely gone beyond verbal or written warnings in California¹⁷³, and having taken an 'education over enforcement' approach in the San Francisco Bay Area¹⁷⁴. Police departments in Chicago cautioned officers not to use stay-at-home orders as a pretext to stop residents¹⁷⁵. At the end of April, in Alaska and Maine, police departments are still reporting that their focus is on education and that they want to avoid arrests and fines as much as possible¹⁷⁶.

In some parts of the country, however, social-distancing orders are being enforced more strictly. Rhode Island's governor ordered state troopers to profile and stop cars with out-of-state license plates¹⁷⁷. Police in New Jersey continue to patrol communities and break up large groups of people. In Maryland, the governor's stay-at-home order carries a fine of up

¹⁷¹ <https://www.justice.gov/doj/page/file/1258516/download>

¹⁷² <https://www.kff.org/health-costs/issue-brief/state-data-and-policy-actions-to-address-coronavirus/>

¹⁷³ <https://www.nytimes.com/2020/04/02/world/australia/coronavirus-police-lockdowns.html>

¹⁷⁴ <https://www.nytimes.com/2020/03/22/us/coronavirus-police.html?action=click&module=RelatedLinks&pgtype=Article>

¹⁷⁵ <https://www.nytimes.com/2020/03/22/us/coronavirus-police.html?action=click&module=RelatedLinks&pgtype=Article>

¹⁷⁶ <https://www.nytimes.com/2020/04/27/opinion/coronavirus-police.html>

¹⁷⁷ <https://www.theguardian.com/commentisfree/2020/apr/07/criminal-justice-system-us-coronavirus-shown-possible-to-change>

to \$5,000 and one year in jail¹⁷⁸, with a number of people already having been charged with violating the order¹⁷⁹. Philadelphia transit police officers violently forced a man off a bus for not wearing a mask. In New York, the maximum fine for breaking social-distancing protocols was raised from \$500 to \$1,000. In Kentucky, judges are ordering people who have tested positive for the coronavirus and have broken quarantine to be fitted with ankle monitors — with the threat of arrest if they leave their homes. In Florida, a judge ruled that people arrested for breaking quarantine can be held without bail¹⁸⁰.

There have been a number of high-profile protests by law enforcement, refusing to enforce particular regulations ordered by their states:

- A Houston police union penned an open letter taking issue with a new order requiring face coverings by anyone in public over 10 years of age, which carries a \$1,000 fine for noncompliance; the police union president said that police departments do not have the resources to enforce 'draconian' face covering orders
- In Wisconsin, a Republican County Sheriff wrote an open letter indicating his department would not be enforcing the stay-at-home order issued by the state's Democratic governor
- In Washington state, another Republican sheriff took issue over the closing of certain businesses
- A Republican sheriff in Michigan penned an open letter to his constituents clarifying how his department would be handling stay-at-home order violations saying: "We are not making traffic stops to see where you are traveling to, ticketing or arresting people whose kids are playing in the yard or questioning people as to unnecessary travel."¹⁸¹

Police safety

There have been a number of police officers deaths attributed to COVID-19¹⁸², with reports of officers lacking access to PPE¹⁸³ as recommended by the Centre for Disease Control¹⁸⁴. Staffing levels at a number of law enforcement agencies have been affected due to the spread of COVID-19. As of mid-April, more than 2,000 New York City Police Department officers had tested positive for the coronavirus, and 20% police force was out sick. In Detroit, 369 officers had been placed in quarantine, after more than 400 recently returned

¹⁷⁸ <https://edition.cnn.com/2020/04/26/politics/law-enforcement-politicians-coronavirus/index.html>

¹⁷⁹ <https://www.wusa9.com/article/news/health/coronavirus/coronavirus-maryland-stay-at-home-police-orders/65-06e76484-553c-4a7c-8cdc-b759eeb1e1ac>

¹⁸⁰ <https://www.nytimes.com/2020/04/27/opinion/coronavirus-police.html>

¹⁸¹ <https://edition.cnn.com/2020/04/26/politics/law-enforcement-politicians-coronavirus/index.html>

¹⁸² <https://www.policeone.com/coronavirus-COVID-19/articles/COVID-19-law-enforcement-deaths-3ftkdPnVffq55iHU/>

¹⁸³ https://www.policefoundation.org/COVID-19/?fbclid=IwAR3KKo1EVUeve0zzUbeeu_fezYOXgB1L3DrZVUgo4Zgm-qomyLdD5U0ZyVc

¹⁸⁴ <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-law-enforcement.html>

from quarantine¹⁸⁵. Many law enforcement officials have complained that it is too difficult to get officers tested for the coronavirus, and that it takes too long to get results¹⁸⁶. There have also been reports of police officers having been spat on, coughed on, or otherwise assaulted by individuals claiming to have been diagnosed with the coronavirus¹⁸⁷.

Social tensions

There have been a number of protests against the new measures, with demonstrations having taken place in about 20 states. Protesters see the new regulations against the spread of COVID-19 as unconstitutional¹⁸⁸. In some cases, they have been backed by President Trump, such as in the case of protests in Michigan¹⁸⁹.

Easing the lockdown

The federal guidelines put in place to slow the spread of the virus by encouraging people to curtail nearly all public life expire on 30 April¹⁹⁰. Earlier in April, President Trump unveiled Guidelines for Opening Up America Again, a three-phased approach to easing the lockdown¹⁹¹.

After having social distancing requirements in place for several weeks, states have begun to roll back some of these measures by allowing some or all non-essential businesses to reopen, rescinding stay at home orders, and easing restrictions on in-person dining at restaurants¹⁹². Texas announced that retail stores, restaurants, movie theatres and malls would be allowed to reopen with limited capacity; Ohio unveiled a more incremental reopening plan that would allow manufacturing work to resume and offices to reopen¹⁹³. This is not the case all over the country, however: as of 30 April, California is said to be due to close all beaches in the state¹⁹⁴.

¹⁸⁵ <https://www.americanprogress.org/issues/criminal-justice/news/2020/04/14/483165/policing-coronavirus-pandemic/>

¹⁸⁶ <https://www.nbcnews.com/news/us-news/police-get-creative-stay-safe-keep-order-coronavirus-spreads-n1176211>

¹⁸⁷ <https://time.com/5812833/coronavirus-police-departments/>

¹⁸⁸ <https://www.bbc.co.uk/news/world-us-canada-52417610>

¹⁸⁹ <https://www.ft.com/content/c8f6f413-39c4-47ce-b1ff-0e02969cb612>

¹⁹⁰ <https://www.nytimes.com/2020/04/30/us/coronavirus-updates.html>

¹⁹¹ <https://www.whitehouse.gov/openingamerica/>

¹⁹² <https://www.kff.org/health-costs/issue-brief/state-data-and-policy-actions-to-address-coronavirus/>

¹⁹³ <https://www.nytimes.com/2020/04/27/us/coronavirus-governors-states-reopening.html>

¹⁹⁴ <https://www.nytimes.com/2020/04/30/us/coronavirus-updates.html>

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How to access background or source data

The data collected for this <statistical bulletin / social research publication>:

- are available in more detail through Scottish Neighbourhood Statistics
- are publicly available
- may be made available on request, subject to consideration of legal and ethical factors. Please contact <email address> for further information.
- cannot be made available by Scottish Government for further analysis as Scottish Government is not the data controller.



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