

## Response to the Call to Evidence issued by the Independent Committee on UK Public Health Emergency Powers, submitted by the Police Foundation.

March 2023

The Police Foundation is the only independent UK think tank focused exclusively on improving policing and developing knowledge and understanding of policing and crime reduction. Its mission is to generate evidence and develop ideas which deliver better policing and a safer society. It does this by producing trusted, impartial research and by working with the police and their partners to create change.

In January 2022, working with Crest Advisory, we published the findings of our [Policing the Pandemic](#) research project, which examined the way UK policing responded to the unprecedented challenges placed upon it by Covid-19 and the emergency public health measures brought in to limit its spread. The research included survey and qualitative research, conducted among members of the public and senior and operational police personnel involved in the delivery of day-to-day policing, during the period from March 2020 to April 2021.

The findings of that research are relevant to two of your Call for Evidence questions, relating to the clarity of public health laws (**Q.24**) and the effect of government guidance on the understanding of restrictions (**Q.25**). Due to the overlaps between these questions, we offer a brief submission covering both questions, below.

### **Relevant findings**

- Our research found that both the public and police practitioners were often unclear on the content of Covid public health laws, particularly given the way they varied considerably over time and between jurisdictions. Our surveys found that:
  - Two thirds of the public (65 %) reported feeling that the 'laws were unclear',
  - A high proportion of police superintendents in England Wales reported challenges in:
    - keeping pace with the changes to policies and regulations (73%),
    - interpreting and applying national guidance (56%) and,
    - ensuring clear and consistent enforcement on the ground (51%).
  - By contrast police practitioners generally felt that operational guidance provided by the National Police Chiefs' Council (NPCC), the College of Policing, force leadership and Corporate Communications was clear and more useful.

- The distinction between legal obligation and guidance was at times ambiguous and presented a challenge both for the public and the police officers designated to enforce the law. The quick-time production of laws created an unprecedented situation in which police leaders needed to formulate front-line guidance retrospectively, once legislation had already been introduced.
- Police practitioners reported that it was the national police guidance i.e., the ‘four Es’ approach, grounded in the principles of Policing by Consent, (issued by the National Police Chief’s Council), that gave consistency and continuity to their day-to-day policing efforts, not the laws and guidance introduced by government.
- Officers’ sometimes experienced difficulties in clearly communicating laws and guidance to the public, feeling that at times they “had to wing it”. They were acutely aware of the threat this presented to their legitimacy and public compliance.
  - For example, differences between the lists of “reasonable excuses” for leaving home provided for in law and guidance, generated concern among police forces that they had sometimes tried to enforce advice rather than the letter of the law. (e.g., reprimanding individuals for shopping for non-essential foods, despite there being no definition in law of which were not essential.)
  - There were also concerns, particularly during the early stages of lockdown, that ambiguity in law and guidance led to geographic discrepancies in practice, reflected in large differences in the volume of penalties issues by police forces.

### **Key implications**

- Based on this research we conclude that the value and efficacy of emergency legislation was determined not just by its design, but by the way it was applied in practice, (largely by the police). We highlight the potential benefit of a greater role for policing in advising on the practicability of legislative responses, for potential future public health emergencies.
- An over-reliance on guidance removes the legislative protections that legitimise police action. This risked undermining the public view of police independence, and by extension, their capacity to police the emergency laws. This is particularly the case when police activity encroaches on other legal rights, such as the right to protest (for example, the decision of the Metropolitan Police to prohibit the Sarah Everard protest).

