



COVID-19 – Policing brief in response to the Health Protection (Coronavirus, Wearing of Face Coverings on Public Transport) (England) Regulations 2020

15.06.2020 Updated up to and including 24 September 2020

This pack covers the **Health Protection (Coronavirus, Wearing of Face Coverings on Public Transport) (England) Regulations 2020** – these Regulations will expire twelve months from the date they came into force. They must be reviewed by the Secretary of State within six months. These Regulations are in addition to the **Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) Regulations 2020**.

Briefings are available on the **Covid-19 Hub** on the Coronavirus Act and all other Health Protection Regulations. It also houses useful information from a variety of policing sources to assist you. The hub is designed to help police forces across the country to respond to the unprecedented situation caused by the coronavirus pandemic in a measured and consistent way.

Policing approach: Policing intends to work in partnership with relevant operators and their staff to ensure face coverings are worn when they should be. We welcome their support in engaging with the public in the first instance, explaining the new requirements and encouraging compliance, to keep us all safe. Police officers' attendance should only be required as a last resort.

This is an England briefing focusing on the general police response permitted under the Regulations. There are broader roles and responsibilities for other 'relevant persons', it is likely they will establish their own guidance for their staff. Discussions with individual providers will be necessary to agree the local response and joint working arrangements.

The Regulations

From the 15 June 2020 no person may, without **reasonable excuse** (see [page 5](#)), use a public transport service without wearing a face covering.

Definition of a face covering:

A **'face covering'** means a covering of any type which covers a person's nose and mouth.

A **public transport service** is defined as:

Any service for the carriage of passengers from place to place which is available to the general public whether or not for payment, whether or not all of the places connected by the service are in England and whether or not there are breaks in the journey. It does not include:

- a school transport service or any service provided by a cruise ship

References to 'a vehicle' can include: an aircraft, a cable car, a train, a vessel, a bus or a tram.

A person is considered to be using a public transport service at any time when they are on board, whether or not for the purposes of travel, or they are boarding any vehicle by which the service is being provided.

For the purposes of these Regulations a **'relevant person'** includes a constable; a police community support officer (PCSO); in relation to a public transport service provided by TfL or a TfL contractor, a TfL officer; in relation to a public transport service provided by any other operator— the operator, or any employee or authorised agent of the operator.

Exemptions

The requirement to wear a face covering does not apply to:

- ✗ a child under the age of 11 years
- ✗ an employee of the operator who is acting in the course of their employment or anyone providing services under arrangements made with the operator
- ✗ a constable or PCSO acting in the course of their duty
- ✗ an emergency responder (other than a constable) acting in their capacity as an emergency responder

This list is not exhaustive. There are other exemptions. See [the Regulations](#) for the complete list.

Reasonable excuse

The circumstances in which a person has a reasonable excuse include those where:

- the person cannot put on, wear or remove a face covering because of any physical or mental illness or impairment, or disability, or without severe distress
- the person is travelling with or providing assistance to another person who relies on lip reading to communicate
- the person removes their face covering to avoid harm or injury, or the risk of either, to themselves or others; or where they are travelling to avoid injury or escape a risk of harm, and do not have a face covering with them

Note: Be professionally curious, do the checks and ask the questions. If someone has needed to take this course of action, there may be safeguarding issues where officers can offer further assistance, protection, advice and support.

- it is reasonably necessary for them to eat or drink and they remove their face covering to do so
- they have had to remove their face covering to take medication
- a police constable or PCSO (or other relevant person) requests the face covering is removed

These Regulations **do not** give officers the power to direct the removal of a face covering or the ability to forcibly remove a face covering from the wearer. Other police powers may apply.

The police response

Policing will adopt a four-phase approach. This is guidance to help officers put the four 'E's into practice – it's a suggested approach. 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.

Engage with those without face coverings, this can be done on the approach to boarding as well as on board although the requirement doesn't start until they are boarding. Check whether they know about the Regulations.

Explain the benefits to the wearer and other passengers of wearing a face covering – to prevent the spread of the virus, save lives and protect the NHS. Explain that the law now requires a passenger to wear a face covering while boarding or on board a vehicle. If necessary you can point out that a failure to wear a covering may result in boarding being denied, a direction to disembark or a fine.

Encourage the person, by helping them acquire a face covering provided by the transport operator ('give aways'), by directing the traveller to a vending machine (where available) or a nearby retail outlet where they can purchase a face covering.

Enforce – enforcement should always be a last resort. For the purposes of enforcing these Regulations, we consider enforcement to be a two-step process:

- a) You have the power to deny boarding if at the time of boarding a person is not wearing a face covering, to direct a person who is in breach of the Regulations to wear a face covering or to direct them to disembark. For compliant individuals no further action will need to be taken. Only a constable may use reasonable force, if necessary, to remove someone from the vehicle, where they fail to comply with a direction to disembark.
- b) As a last resort, officers may issue a fixed penalty notice for breach of the Regulations or arrest where necessary.

You may only exercise any of the powers at (a) above if you consider they are a necessary and proportionate means of ensuring compliance with the requirement to wear a face covering when using a public transport service.

Enforcement options

A constable, a PCSO (or other relevant person) may deny boarding to any person they consider not to be wearing a face covering at the time of boarding. They can direct a person they consider to be in breach of the Regulation to:

- wear a face covering, or
- disembark from a relevant vehicle.

Only a constable may remove a person from the vehicle, and may use reasonable force if necessary to do so.

The use of force does not apply to other relevant persons eg, travel operators.

Fixed Penalty Notice

Where someone is reasonably believed to have committed an offence under these Regulations and is 18 or over, officers may issue them with a fixed penalty notice for £200 payable within 28 days, this is reduced to £100 if paid within 14 days. Court proceedings may be brought in cases of non-payment.

The reduction to £100 only applies to the first FPN. The fine amounts double for each subsequent offence, up to £6,400 for the sixth and subsequent offences.

To determine how many fines a person has received any FPNs issued under these Regulations or the Wearing of Face Coverings in a Relevant Place Regulations will be taken into account.

Note: where a person has received two or more FPNs under either of these Regulations prior to 28 August, they will be counted as one FPN for the purposes of determining the amount for any FPNs given after that date.

Offences: Anyone contravening these requirements (to wear a face covering or comply with a direction to disembark), or obstructing someone carrying out any function under these Regulations (without reasonable excuse) commits an offence, punishable on summary conviction by a fine.

Children

Where an officer has reasonable grounds to believe that a child aged 11 or over is failing to comply with the requirement to wear a face covering, they may direct any individual who has responsibility for the child to secure, so far as reasonably practicable, that the child complies with the requirement.

Recording

These are non-recordable offences. They can't be punished by imprisonment.

- **Ensure you are adhering to your own force protocols and force management system recording.**
- **Biometrics are not required to be taken.**

Powers of arrest

The necessity test under Section 24 PACE has been temporarily amended by the Health Protection Regulations to include:

- to maintain public health
- to maintain public order

Usual applications of **Section 24 PACE** still apply and officers' attention is specifically drawn to the **necessity to arrest in relation to ascertaining name and address**, and **to protect a child or other vulnerable person from the person in question**. In this context, this aspect is linked to the spread of infection.

The process for issuing a fixed penalty notice

Penalty Notice for COVID-19

PART 1 - PROFORMA FOR OFFICER

Force Code

PNC checked? Yes No

Offender Details Title _____ Date of Birth _____

Surname _____

Forenames _____

Address _____

Postcode _____ Telephone _____

Email _____

PNC ID CODE _____ Self-Defined Ethnicity _____ Gender (circle) M | F | U

On _____ 2 0 _____ at _____ hours

At _____

(Delete as appropriate)

Contravene requirement to not participate in a gathering in public of more than two people – Coronavirus

Contravene requirement as to restriction of movement during emergency period – Coronavirus

Obstruct person carrying out a function under the regulations – Coronavirus

Contravene requirement from relevant person – Coronavirus

Contravene a direction or fail to comply with instruction – Coronavirus

Circumstances of the offence

Contrary to the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020

Issuing Officer (PRINT NAME) _____

Signed _____ No. _____

Station _____ Station Code _____

Force _____ Date _____

ID CHECKS MUST BE COMPLETED

ID CHECKS MADE (details section must be filled in)

Driver's Licence Passport Bank / Credit Card Mobile Data

Travel / Photo Card National Insurance

Other (specify) _____

ID Document No. _____

Incident No. _____

BWV Ref No. _____ (if applicable)

Please forward the information via photograph or electronic format to: cv19.fpn@acro.pnn.police.uk

1. Police officer/PCSO takes the decision **that an offence has been committed** under these Regulations and FPN needs to be issued.
2. The officer/PCSO takes the details required for the fine on a standard form, and reports the person for summons and gives them a caution.
3. The encounter should be recorded on body-worn video (where available) and sufficient information should be obtained to provide a statement if the person fails to make payment.
4. The officer/PCSO emails a copy of the standard form to a dedicated mailbox in ACRO – [**cv19.fpn@acro.pnn.police.uk**](mailto:cv19.fpn@acro.pnn.police.uk)
5. Everything else will be dealt with centrally and will only come back to the force if the person fails to make payment.