

COVID-19 – Policing brief in response to the Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) Regulations 2020

These Regulations come into force on 24 July 2020 and were amended on 8 August to include more premises.



This pack covers the **Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (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 on Public Transport) (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 business owners 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. It should be noted that the majority of relevant places, eg, shops, places of worship and retail outlets, are private premises and their staff have the right to control access. 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

No person may, without **reasonable excuse**, enter or remain within a **relevant place** without wearing a face covering.

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

Relevant places where face coverings must be worn include, but are not limited to:

- a) a shop (exemptions apply)
- b) enclosed shopping centres, excluding any area in that building which is open to the public and where seating or tables are made available for the consumption of food and drink
- c) banks and building societies
- d) post offices
- e) enclosed transport hubs; indoor places of worship; and crematoria
- f) Public areas in hotels; and cinemas

Relevant places do not include:

- a) restaurants with table service, including restaurants and dining rooms in hotels or members' clubs
- b) bars, including bars in hotels or members' clubs
- c) public houses

For the purposes of these Regulations a **'relevant person'** includes a constable and a police community support officer (PCSO).

Exemptions

The requirement to wear a face covering does not apply to certain people including:

- ✘ a child under the age of 11 years
- ✘ a person responsible for a relevant place or an employee of that person acting in the course of their employment
- ✘ persons providing services in the relevant place
- ✘ an emergency responder (other than a constable) acting in their capacity as an emergency responder
- ✘ a constable or PCSO acting in the course of their duty

While the Regulations do not require a constable or PCSO to wear a face covering, local force policies may exist detailing any requirement for their operational employees to wear face coverings.

Reasonable excuse

- 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 accompanying, 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

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.

- the person is entering or within a relevant place to avoid injury, or to escape a risk of harm, and does not have a face covering with them
- it is reasonably necessary for the person to eat or drink, and they remove their face covering to do so
- the person has had to remove their face covering to take medication
- a police constable or PCSO (or other relevant person) requests the face covering is removed
- a person responsible for a relevant place or an employee of that person acting in the course of their employment requires someone to remove their face covering in order to verify their identity
- the person is in a registered pharmacy under specified circumstances

These Regulations **do not** give officers the power to forcibly remove a face covering from the wearer.

Not every disability is visible. Where a member of the public needs more support or cannot wear a face covering, officers should engage with them but they should be sensitive to an individual's confidentiality and circumstances.

Enforcement options (including children)

Where a constable/PCSO considers that a person is, at the time of entering the relevant place, not wearing a face covering, they can deny them entry. The relevant person (constable/PCSO) can also:

- direct them to wear a covering
- direct them to leave the relevant place

Where a person does not comply with the direction the constable may remove them from the relevant place. A constable may use force if necessary.

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.

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 £100 payable within 28 days (regardless of whether previous FPNs have been issued), but this is reduced to £50 if paid within 14 days. Court proceedings may be brought in cases of non-payment.

Offences include:

- a) Contravening the requirement to wear a face covering in a relevant place
- b) Contravening a direction, without reasonable excuse
- c) Obstructing a relevant person carrying out a function under these Regulations, without reasonable cause

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 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 entering a relevant place. Check whether they know about the Regulations.

Explain the benefits to the wearer and others of wearing a face covering – to prevent the spread of the virus, save lives and protect the NHS. Explain that the law now requires someone to wear a face covering while entering or remaining in a relevant place. If necessary you can point out that a failure to wear a covering may result in entry being denied, a direction to wear a covering or leave the relevant place, or even a FPN.

Encourage the person, by helping them acquire a face covering. Some retailers may have 'give aways' available.

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 them entry if the person is not wearing a face covering, to direct a person who is in breach of the Regulations to wear a face covering or direct them to leave. For compliant individuals no further action will need to be taken. Only a constable may use reasonable force, if necessary, to remove someone, where they fail to comply with a direction to leave.
- 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 if you consider they are a necessary and proportionate means of ensuring compliance with the requirement to wear a face covering when using a relevant place.

Penalty Notice for COVID-19

PART 1 - PROFORMA FOR OFFICER

Force Code

PNC checked? Yes No

Offender Details Title _____ Date of Birth _____

Surname _____

Forname(s) _____

Address _____

Postcode _____ Telephone _____

Email _____

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

On _____ 20____ at _____ hours

At _____

(Delete as appropriate)

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

Coronavirus requirement as to restriction of movement being emergency related – Coronavirus

Obstruct person carrying out a function under the regulations – Coronavirus

Coronavirus requirement from relevant person – Coronavirus

Coronavirus 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. _____

BVVV Ref No: _____ (if applicable)

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

The process for issuing a fixed penalty notice

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 FPN on a standard form, including recording self-defined ethnicity 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
5. Everything else will be dealt with centrally and will only come back to the force if the person fails to make payment.

*Image for illustrative purposes only. Forms may vary.