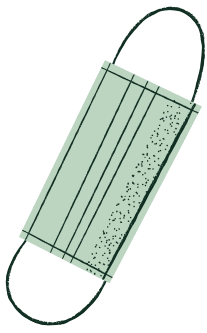




CORONAVIRUS FINES + CRIMES GUIDE

This guide supplements our [Coronavirus Fines + Crimes Web App](#), an online tool designed for you to know your rights and to assess your options if you are stopped by the police for an alleged breach of the Coronavirus restrictions in England & Wales.

(1) CORONAVIRUS AND THE CRIMINAL LAW



On 26 March 2020, the government passed new law imposing restrictions on the general public, intended to prevent the spread of COVID-19. As the government response to the pandemic has changed, so too has the law. You can find a list of the Coronavirus Regulations currently in force on the [UK government website](#).

Each of these sets of Regulations have also created new criminal offences. If you breach a restriction and you do not fall within one of the exceptions or otherwise have a 'reasonable excuse', then you will commit a criminal offence.

It is important to remember that not all of the government guidance is underpinned by law. For example, social distancing is advisable but you will not commit an offence if you go within a 2m distance of someone else. The police and the courts only have the power to enforce the law, not government guidance.

A good place to check what the current restrictions are and what that means for you is the '[Coronavirus: Know Your Rights](#)' section on the Liberty website.

(2) WHAT IS A FIXED PENALTY NOTICE?

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

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

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

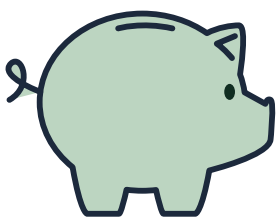


This gives you the option to avoid being charged with a criminal offence by paying a fine to a local authority instead.

FPNs are usually issued by post. The police must tell you certain information when they issue a FPN. They must:

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

(3) HOW MUCH WOULD I PAY?



The size of the fixed penalty depend on:

- (i) what the alleged offence is, and
- (ii) whether or not you have received a FPN before.

For a first offence the penalty will usually be £200. If you pay this within 14 days, this can be reduced to £100. If you commit a further offence the penalty for that next new offence will be double, i.e. £400. This is capped at £6,400 for the sixth offence and any further offences.

If you organise an illegal gathering, the police can issue a £10,000 penalty even when this is a first offence.

However, the police must explain to you that if you choose not to pay the FPN and instead contest a charge in court, if you are convicted of an offence the fine you are required to pay may be significantly lower. The pros and cons of going to court are set out on the next page.

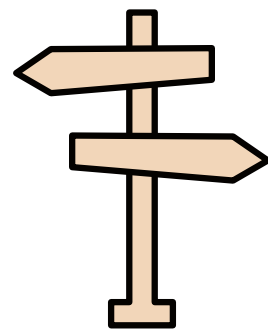
(4) WHAT ARE MY OTHER OPTIONS?

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

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

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

For either of these options, you should consult a solicitor if possible (see below).



(5) GOING TO COURT - THE PROS AND CONS

If you do not pay the fixed penalty within the 28 day grace period, you may be charged with a criminal offence and asked to appear in the Magistrates Court.

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

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

If you were given a Fixed Penalty Notice for £10,000 the Court will consider whether or not you are able to afford a fine this large. If you can't afford to pay this level of fine, then you might pay a lower fine than the Fixed Penalty Notice.

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

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

You need to consider carefully whether or not it is worth contesting your case in the Magistrates Court. If you are confident that there is an exception that applies to your circumstances or that you had a reasonable excuse for breaching a restriction then this may be important to raise.

Another option is to ask a High Court judge to '**judicially review**' the police decision to issue you with a Fixed Penalty Notice. The judge would consider whether or not the police were acting within their lawful powers when issuing you with the Fixed Penalty Notice. If they decide that the police were not acting lawfully then you will not pay a fine, but if the judge decides that the police were acting lawfully then you will be back to the choice between paying the Fixed Penalty Notice or going to the Magistrates Court. You will need legal advice if this is an option you are considering.

A NOTE ON LEGAL AID

The Legal Aid Agency ('LAA') is a government agency that pays for the legal representation of people who meet its eligibility criteria.

More information on this criteria can be found at:

www.gov.uk/guidance/work-out-who-qualifies-for-criminal-legal-aid

At the police station - if you are arrested or invited to a voluntary interview, representation in your interview is **always free**. The LAA pays a fixed fee to the legal representative, no matter who the client is.

At court - representation under the Legal Aid Scheme is determined by two tests:

- (1) The **means test** - this is information about the applicants income, capital and outgoings to determine their 'disposable income'. If the applicant meets a certain threshold, they cannot receive any Legal Aid, or will be asked to make a financial contribution. The threshold differs for the Magistrates Court and the Crown Court.
- (2) The **interests of justice test** - there are various factors to this including the complexity of the allegation, the likely sentence and the defendants ability to understand the proceedings.

ABOUT COMMONS

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

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

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

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