

# **BRITAIN**

## **THE STATE OF THE STATE IN 2026**

**A Public Interest Assessment of  
Governance, Policing, Regulation  
and Constitutional Integrity**

**Prepared by: Ian Clayton**

**Lead Investigator - Ethical Approach UK**

**Published: 2 February 2026**

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## **Executive Summary**

This report examines the constitutional functioning of key institutions within the United Kingdom's policing, prosecutorial, executive, regulatory and parliamentary oversight framework during and following the national policing operation known as Operation Talla.

Using primary documentary evidence and formal institutional correspondence, the report assesses whether established safeguards of transparency, independence, accountability and lawful authority operated effectively when legitimate constitutional and governance questions were raised.

Across multiple independent bodies, a consistent pattern was observed:

- substantive non-engagement
- procedural deflection
- reliance upon narrow technical characterisations
- or institutional silence

While no single instance establishes misconduct, the cumulative pattern suggests a systemic reduction in visible accountability mechanisms.

The concern addressed by this report is not individual fault.

It is whether the State's constitutional safeguards are demonstrably functioning as intended.

## **1. Introduction and Purpose**

This report provides a public-interest assessment of the present condition of constitutional accountability across:

- policing
- prosecution
- executive administration
- professional regulation
- parliamentary scrutiny

It asks a limited and factual question:

*When legitimate constitutional or governance queries are formally raised, do public institutions engage transparently and substantively?*

The answer is assessed exclusively through documentary evidence.

## **2. Methodology and Evidential Standards**

### 2.1 Documentary approach

This assessment relies solely upon primary materials:

- formal correspondence
- official statements
- public inquiry evidence
- statutory frameworks
- published institutional responses

No anonymous sources or speculative material are relied upon.

### 2.2 Evidential integrity

All communications were:

- dated
- preserved
- issued formally
- and recorded contemporaneously



Where institutions declined to respond, the absence of response is treated as a factual matter only.

### 2.3 Right of reply

Before publication:

- each institution was contacted directly
- questions were clearly framed
- evidential context was supplied
- reasonable timeframes were provided
- reminders were issued

This ensured procedural fairness.

### 2.4 Formal institutional engagement

Correspondence was issued to:

- Crown Prosecution Service
- His Majesty's Courts and Tribunals Service
- His Majesty's Inspectorate of Constabulary and Fire & Rescue Services
- Home Office
- Ministry of Justice
- South Wales Police
- National Police Chiefs' Council
- House of Commons Public Administration and Constitutional Affairs Committee
- Solicitors Regulation Authority

Each was invited to clarify its constitutional position.

## 2.5 Formal closure of correspondence and preservation of record

Where no substantive responses were received within the notified timeframe, a formal notice of expiry was issued confirming:

- the response window had closed
- silence would be recorded as non-response
- and correspondence would be placed into the public domain

This step was procedural, not adversarial and was taken to preserve transparency and evidential integrity.

## **3. Constitutional Baseline**

The United Kingdom's constitutional framework relies upon:

- policing by consent
- prosecutorial independence
- ministerial accountability
- regulatory independence
- parliamentary scrutiny
- statutory disclosure obligations (CPIA)
- transparency of lawful authority

These principles form the benchmark against which institutional conduct is assessed.

## **4. Operation Talla Governance Architecture - Official Evidence**

Official evidence submitted by the Crown Prosecution Service to the UK Covid-19 Inquiry provides direct confirmation of the governance structure operating during Operation Talla.

The statement records that:

- the Home Office shared draft Regulations with Operation Talla participants
- an informal multi-agency legal network developed
- representatives included CPS, NPCC, Home Office leads, Metropolitan Police legal services and others
- draft legal measures were reviewed collaboratively
- feedback was required rapidly
- enforcement strategies were coordinated nationally
- and a cross-government command structure operated

The Criminal Justice System Strategic Command (CJSSC), established by the Ministry of Justice, reportedly:

- exercised overall responsibility for multi-agency management
- set common strategy
- operated Gold/Silver/Bronze levels
- included senior CPS leadership
- met daily or weekly for extended periods

This evidence demonstrates that policing, prosecution and executive departments operated within an integrated coordination framework rather than strictly separated silos.

Such integration is not itself improper.

However, it materially qualifies later assertions of complete operational separation or non-involvement.

## **5. Case Studies - Institutional Conduct**

### 5.1 Crown Prosecution Service

Correspondence sought clarification on:

- prosecutorial independence
- safeguards against reliance solely on police referral
- handling of potential CPIA risks

The CPS responded by directing the matter into Freedom of Information channels rather than engaging substantively with the constitutional questions.

No explanation of safeguards was provided.

### 5.2 National Police Chiefs' Council

A single governance question was posed concerning the lawful basis for nationally coordinated “do not record” assessments.

The NPCC treated the matter as an FOI request and confined engagement to procedural commentary, including reference to potential “vexatious” characterisation.

The constitutional substance was not addressed.

### 5.3 Home Office

Clarification was requested regarding the department’s engagement with national coordination structures.

The Home Office relied upon general assertions of operational independence and redirected the matter to local complaint mechanisms.

No explanation of executive-level involvement or safeguards was provided.

### 5.4 Solicitors Regulation Authority

Questions were raised at governance level concerning:

- regulatory independence
- safeguards against executive influence
- protection of lawful advocacy
- controls on preventive regulatory measures

No substantive response was received.

## 5.5 Parliamentary Oversight

Evidence was formally placed before the House of Commons Public Administration and Constitutional Affairs Committee seeking scrutiny of nationally coordinated policing practices.

No acknowledgement or substantive engagement has been recorded.

## **6. Pattern Analysis - Systemic Non-Engagement**

When the individual case studies are considered collectively rather than in isolation, a consistent and identifiable pattern emerges across institutions of different constitutional function.

These bodies perform distinct roles within the State. They are not operationally linked in their day-to-day responsibilities and each is intended to act independently within its own sphere. For that reason, similar institutional behaviour across all of them warrants careful attention.

In correspondence with the prosecutorial authority, engagement was limited to procedural redirection, with reliance placed upon the position that material could only be considered if referred by investigators. No substantive explanation was provided as to how prosecutorial independence is safeguarded where investigators themselves may be the subject of concern.

At the national policing coordination level, governance questions were reframed as requests under the Freedom of Information regime, despite the absence of any request for recorded information. Engagement was confined to procedural handling rather than the substance of lawful authority or constitutional accountability.

At executive level, reliance was placed upon general assertions of operational independence of police forces. Specific questions concerning the extent of national coordination and ministerial proximity were not addressed directly. The effect was to characterise matters as local operational issues, notwithstanding evidence of centrally coordinated structures.

Within the sphere of professional regulation, detailed governance questions concerning independence safeguards, information-sharing practices and protections for lawful advocacy received no substantive response. The absence of engagement prevented clarification of how regulatory powers are insulated from external policy or policing influence.

Finally, correspondence placed before the relevant parliamentary scrutiny committee, whose remit expressly includes constitutional accountability and public administration propriety, received no acknowledgement or substantive reply. As parliamentary oversight represents

the ultimate democratic safeguard, non-engagement at this level is of particular constitutional significance.

Taken individually, each instance might be explained by workload, prioritisation, or administrative judgement.

Considered together, however, the recurrence of the same outcome - namely the absence of substantive engagement with legitimate constitutional questions, indicates a broader systemic feature rather than isolated coincidence.

The common characteristic is not disagreement, rebuttal, or reasoned explanation. It is the consistent avoidance of addressing the substance of the questions posed.

In constitutional systems founded upon the rule of law, institutions are expected to explain the legal and governance basis of their actions when reasonably asked to do so in the public interest. Such explanation is not adversarial; it is a normal function of accountability.

Where explanation is repeatedly withheld across multiple independent bodies, the practical effect is to weaken transparency and reduce public confidence in oversight mechanisms.

The concern identified here is therefore structural rather than personal. It is not that particular answers were unsatisfactory, but that answers were not provided at all.



This pattern of non-engagement, repeated across prosecution, policing coordination, executive administration, regulation and parliamentary oversight, forms the central evidential basis for the assessment which follows.

## **7. Legal and Constitutional Assessment**

Risks arising from the observed pattern include:

- weakened CPIA safeguards
- impaired prosecutorial independence
- diffusion of executive accountability
- reduced transparency of lawful authority
- diminished parliamentary oversight
- erosion of public trust

The report does not determine liability.

It assesses whether safeguards are demonstrably functioning.

## **8. Impact on the Public**

Practical consequences may include:

- reduced clarity on complaint pathways
- diminished confidence in institutional independence
- difficulty obtaining explanation of decisions

- perception of governance opacity

Public trust depends upon visible accountability.

## **9. Conclusions**

The evidence does not establish overt misconduct.

It establishes something quieter:

a repeated reluctance across multiple institutions to explain authority when reasonably asked.

In constitutional democracies, legitimacy depends not only upon lawful action, but upon willingness to account for it.

Where explanation is absent across prosecution, policing coordination, executive departments, regulators and parliamentary scrutiny, the appearance of accountability weakens.

That condition warrants careful and urgent attention.

## **10. Recommendations**

Consideration should be given to:

- clear statutory duties to respond to constitutional queries
- strengthened audit and disclosure mechanisms

- transparent documentation of national coordination structures
- enhanced independence safeguards
- routine publication of governance frameworks
- and improved parliamentary review triggers

## **Appendices**

All cited correspondence and official materials:

- CPS correspondence
- NPCC correspondence
- Home Office correspondence
- SRA correspondence
- PACAC correspondence
- Closure notice
- Statement by Gregor McGill, representing Crown Prosecution Service

**These documents are appended below**

## **Crown Prosecution Service - Constitutional Correspondence**

From:

Ethical Approach UK

To:

- (1) Crown Prosecution Service
- (2) His Majesty's Courts and Tribunals Service
- (3) His Majesty's Inspectorate of Constabulary and Fire and Rescue Service
- (4) The Home Office
- (5) Ministry of Justice
- (6) South Wales Police
- (7) National Police Chiefs' Council
- (8) House of Commons Public Administration and Constitutional Affairs Committee
- (9) Solicitors Regulation Authority

Cc: Ian Clayton, Ethical Approach UK

Date: 27 January 2026 at 00:06

Dear Sir or Madam

## **Re: Formal Notice of Expired Response Period and Publication of Correspondence**

I write further to my previous correspondence and the reminder issued on 19 January 2026, in which a clear and reasonable timeframe for response was provided.

No substantive response has been received from any addressee within that advised period.

In the circumstances and given the constitutional and public-interest issues raised, it is now necessary to proceed on the reasonable basis that no response is forthcoming.

Accordingly, the response window is now considered closed.

The correspondence, together with supporting materials, will now be published in the public domain in order to preserve an accurate and complete evidential record and to ensure transparency in matters concerning public administration and statutory accountability.

For the avoidance of doubt, the absence of substantive response within the specified timeframe will stand on the public record as a non-response.

Should any communication be received after this point, it will not alter that position but will be published alongside the existing material so that the record remains complete and contemporaneous.

Yours faithfully

Ian Clayton

Lead Investigator

Ethical Approach UK

From:

Ethical Approach UK

To:

Crown Prosecution Service

Date:

26 January 2026 at 12:59

Dear Sir or Madam

**Re: Clarification - Constitutional correspondence (not FOI) and response deadline**

Thank you for your reply.

For clarity, my correspondence of 26 December 2025 was not a request made under the Freedom of Information Act 2000.

No recorded information or documentation was sought.

Instead, the email raised a series of constitutional and governance questions concerning the CPS's embedded role within Operation Talla and the safeguards said to preserve prosecutorial independence.

These questions sought clarification of institutional position and constitutional principle, rather than disclosure of held information and therefore do not fall within the scope or purpose of the FOI regime.

Accordingly, referral to the FOI process does not address the substance of the matters raised.

As previously advised in my reminder correspondence of 19 January 2026, a clear and reasonable timeframe for a substantive response was provided. Close of business today constitutes the stated closing point for that response.

In the absence of a substantive reply addressing the constitutional issues identified, the position will be recorded as a non-response and the correspondence will be placed on the public record in the interests of transparency and constitutional accountability, as previously notified.

Should any substantive response be received after that point, it will be published alongside the existing material so that the record remains complete and contemporaneous.



Yours faithfully

Ian Clayton

Lead Investigator

Ethical Approach UK

From:

Crown Prosecution Service

To:

Ethical Approach UK

Date:

26 January 2026 at 11:52

Dear Mr Clayton,

Thank you for contacting the Crown Prosecution Service (CPS).

In response to your enquiry, please note, that you can submit a Freedom of Information (FOI) request to our Information Access Team (IAT). They can be contacted at [IAT@cps.gov.uk](mailto:IAT@cps.gov.uk)

I have also provided a link to our website regarding FOI that you may find helpful. <https://www.cps.gov.uk/publication/freedom-information>

Yours sincerely,

## **Enquiries**

### **Crown Prosecution Service**

**102 Petty France, London, SW1H 9EA**

**[Enquiries@cps.gov.uk](mailto:Enquiries@cps.gov.uk) | [@cpsuk](#)**

From:

Ethical Approach UK

To:

Crown Prosecution Service

Date:

19 January 2026 at 06:22

Dear Sir or Madam

I write further to my correspondence sent to you in December 2025, a copy of which is attached.

To date, no substantive response has been received.

Given the constitutional seriousness of the matters raised , including issues of policing governance, prosecutorial independence, judicial visibility, disclosure integrity and the operation of national coordination frameworks during Operation Talla, continued institutional silence is itself a matter of public significance.

I therefore write to give formal notice of the following.

If a fully substantive response is not received by close of business on Monday 26 January 2026, Ethical Approach UK will proceed on the basis that institutional silence constitutes the response and will record and rely upon that position accordingly.

No extension of time will be assumed or granted in the absence of an express request accompanied by a clear explanation.

For the avoidance of doubt, this correspondence is not adversarial. It is directed to ensuring constitutional clarity, accuracy of the public record and public confidence in the integrity of the justice system. However, silence cannot be treated as neutral where the matters raised go to the heart of governance, accountability and the rule of law.

This follow-up is sent in the public interest and will be retained as part of the ongoing evidential and documentary record.

Yours faithfully

Ian Clayton

Lead Investigator

Ethical Approach UK

From:

Ethical Approach UK

To:

Crown Prosecution Service

Date:

26 December 2025 at 11:26

Dear Sir or Madam

**Re: Constitutional clarity request - CPS involvement in  
Operation Talla**

I write further to my correspondence with the Crown Prosecution Service in August 2025 and to evidence which has subsequently come to my attention, which was placed into the public domain through the CPS's witness statement to the UK Covid-19 Public Inquiry.

Please note: A PDF file relating to the August 2025 correspondence with you is attached, for your convenience of reference.

As you will be aware, that statement confirms that during the Covid period the CPS, including senior legal leadership, was embedded within Operation Talla as part of a multi-agency framework involving the Home Office, the NPCC, the NPoCC, the College of Policing and Metropolitan Police legal services.

It further confirms that CPS representatives participated in informal networks reviewing draft regulations and contributing to the development of nationally consistent operational guidance.

This disclosure provides important constitutional context which was not available at the time of my August correspondence with you.

In August 2025, the CPS explained that it was unable to consider material provided directly to it and that its role was confined to considering evidence supplied by investigators if and when the police decided to investigate. That position was presented as reflecting the proper constitutional boundaries of prosecutorial independence.

In light of the CPS's own subsequent evidence to the Inquiry, I now respectfully seek constitutional clarification

on the following matters, in the public interest and in support of maintaining public confidence in the justice system:

- How the CPS reconciles its embedded role within Operation Talla - including participation in multi-agency legal and policy coordination, with its position that it cannot even consider material raising concerns about police handling of evidence unless the police themselves choose to supply it.
- What safeguards the CPS considers necessary to preserve prosecutorial independence where allegations concern potential statutory breaches by police forces operating within a national framework to which the CPS itself contributed.
- How the CPS ensures that CPIA-related risks, including alleged suppression or non-recording of material at source, can be identified and addressed where the ordinary police-to-prosecutor referral pathway may itself be implicated.

These questions are not posed adversarially. They arise from a genuine concern for constitutional integrity, the

appearance as well as the reality of prosecutorial independence and the need for public confidence that allegations of serious wrongdoing are capable of reaching independent judicial scrutiny.

Given the importance of these issues, I would be grateful for a substantive response addressing the constitutional position, rather than a purely procedural restatement.

This correspondence is sent in the public interest and will be retained as part of the ongoing record concerning Operation Talla and its wider implications for the criminal justice system.

Yours faithfully

Ian Clayton

Lead Investigator

Ethical Approach UK

**Attachment:** *Email correspondence - August 2025 (PDF)*



From:  
Ethical Approach UK

To:  
Crown Prosecution Service

Date:  
22 August 2025, at 18:26

Dear Sir / Madam,

I acknowledge receipt of your correspondence dated 22 August 2025.

You state that the Crown Prosecution Service “is unable to consider the material contained within the link” I provided, and that the CPS can only consider material where the police “decide to investigate” and then choose to supply it.

This position is troubling for a number of reasons.

## **1. Prosecutorial Independence Reduced to Dependence**

The CPS has a constitutional obligation to act as an independent prosecuting authority. Yet the stance

expressed in your letter reduces that independence to dependence on police willingness.

Surely independence is not about restricting prosecutorial sight of evidence to a single, limited source, particularly when that very source (the police) is itself the subject of allegations of statutory breaches.

The absurdity is plain: it is rather like allowing the burglar who has stolen a television from your home to decide whether his actions are worthy of investigation, whether he should be charged and whether he should then refer himself for prosecution.

## **2. CPIA Duties Operate Independently of “Crime Recording”**

The Criminal Procedure and Investigations Act 1996 (CPIA) imposes strict statutory duties on investigators to retain and disclose all relevant material. These duties arise by operation of law, not at the whim of whether police choose to record something as a “crime.”

Where investigators unlawfully withhold material, whether by downgrading reports into “incidents” or by blanket refusal to acknowledge submissions, the integrity of the entire evidential chain is compromised.

The CPS cannot plausibly argue that it has no role where police CPIA duties are in question. On the contrary, your prosecutorial independence is itself undermined if you accept blindness to potential breaches at source.

### **3. Notice of Potential Breaches**

The CPS has now been placed on notice that material exists raising serious concerns about Metropolitan Police handling of evidence and possible statutory breaches under CPIA.

A refusal even to look at such material does not insulate the CPS. It risks drawing the CPS into the very chain of accountability being questioned and exposes the Service to the charge of complicity by omission.

### **4. Public Interest and Constitutional Safeguards**

The issues here go beyond operational judgments. They engage the public's confidence in the justice system and the constitutional safeguard of prosecutorial independence.

If the CPS knowingly allows itself to remain blind to CPIA breaches by investigators, it is not merely the police whose conduct is under question - it is the credibility of the prosecutorial system itself.

## **Request for Clarification**

I therefore request that the CPS confirm:

- How it proposes to ensure its prosecutorial independence is not undermined where investigators may unlawfully suppress evidence at source;

and

- What steps it will take, now being on notice, to prevent further contamination of the prosecutorial process by potential CPIA breaches.

In the absence of a substantive response, this correspondence will be retained as part of the ongoing record of systemic failures of both investigative and prosecutorial bodies to uphold statutory and constitutional duties.

Yours faithfully,

Ian Clayton

Lead Investigator  
Ethical Approach UK

**On 22 Aug 2025, at 11:56,  
Crown Prosecution Service  
wrote:**

Dear Mr Clayton,

We acknowledge receipt of your email dated 16 August 2025 at 11:57. As we have explained previously, the role of the Crown Prosecution Service (CPS) is to consider evidence obtained by investigators with statutory powers of investigation. Consequently, we are unable to consider the material contained within the link you have supplied. If the police decide to investigate the matters you have raised they can provide the CPS with such material as they consider relevant.

Thank you for contacting the CPS.

Yours sincerely,

**Enquiries  
Crown Prosecution Service  
102 Petty France, London, SW1H 9EA**

**From:** Ethical Approach UK

**To:** Crown Prosecution Service

**Sent:** 16 August 2025 11:57

**Subject:** External Email - Transparency Submission:  
Evidence Pack Concerning Metropolitan Police Service  
and Statutory Breaches

Caution – this email originated outside your organisation.

Do not click on any links or attachments unless you recognise the sender, their email address and know the email is safe to open.

[Find out how to identify phishing and suspicious emails by viewing the related intranet pages](#)

Dear Sir / Madam

**Subject: Transparency Submission: Evidence Pack  
Concerning Metropolitan Police Service and Statutory  
Breaches**

I am submitting to the CPS an Evidence Pack which sets out apparent breaches of statutory duties by the Metropolitan Police Service (MPS) in its handling of criminal allegations linked to the COVID-19 period.

The evidence raises concerns under the Criminal Procedure and Investigations Act 1996 (CPIA) and indicates possible failures in disclosure to the courts.

While I recognise that the CPS cannot direct the police to investigate, I believe it is vital that you are placed on notice of this material, given your prosecutorial role and responsibility to assess evidence where cases are referred.

This submission is made as a transparency measure and to ensure consistency across oversight and prosecutorial authorities.



Evidence Pack:

[https://ethicalapproach.co.uk/Criminal\\_Allegation\\_Report\\_mps\\_npcc\\_talla\\_etc\\_Edn1.pdf](https://ethicalapproach.co.uk/Criminal_Allegation_Report_mps_npcc_talla_etc_Edn1.pdf)

Yours faithfully

Ian Clayton

Lead Investigator  
Ethical Approach UK

From:

Ethical Approach UK

To:

National Police Chiefs Council

Date:

19 January 2026 at 17:50

Dear Sir or Madam

**Re: NPCC reframing and avoidance of constitutional issues and questions**

Thank you for your correspondence of today (19 January 2026).

I note your decision to treat my earlier communication as a request under the Freedom of Information Act 2000, notwithstanding that it was explicitly and deliberately framed as a non-FOI communication, raising matters of constitutional governance, lawful authority and statutory compliance, rather than seeking disclosure of documents or recorded information.



For the avoidance of doubt, the substance of my correspondence was not a request for information within the meaning of FOIA. It sought clarification of the lawful basis and governance framework by which national-level “do not record” assessments were undertaken during Operation Talla and how such practices were reconciled with the National Crime Recording Standard and statutory duties owed to victims.

Your response does not engage with those substantive issues. Instead, it confines itself to procedural commentary on FOI handling and the potential application of section 14.

It is difficult to see how constitutionally relevant questions, raised clearly and expressly in the public interest, can properly be characterised as “vexatious” in the absence of any identified abusive, disruptive, or improper purpose. No such purpose has been articulated or evidenced. The mere persistence of focused, serious inquiry into a matter of national policing governance cannot lawfully or constitutionally be equated with vexatiousness. To do so risks conflating legitimate public-interest scrutiny with procedural inconvenience and has the effect of insulating questions of lawful authority from examination rather than addressing them.

I am grateful for the clarity you have provided as to the NPCC’s procedural position. However, it must be formally recorded that

the core constitutional questions remain unanswered and that the NPCC has clearly chosen not to engage with the substance of those questions outside of a framework which enables refusal.

Accordingly, your response will now be retained and relied upon as part of the conclusive record being developed in relation to Operation Talla, documenting institutional positions taken, including refusals to engage substantively across the UK's policing and governance landscape. It will be considered alongside responses, partial responses and continued silence from other relevant institutions.

This correspondence is sent in the public interest and will now be preserved as part of the evidential record.

Yours faithfully

Ian Clayton

Lead Investigator

Ethical Approach UK

c/o PO BOX 481  
Fareham  
Hampshire  
PO14 9FS

Tel: 02380 478922

Email: [npcc.foi.request@npfdu.police.uk](mailto:npcc.foi.request@npfdu.police.uk)

19/01/2026

**FREEDOM OF INFORMATION REQUEST REFERENCE NUMBER 2725/2026**

Thank you for your request for information regarding Op Talla; which has now been considered.

**Applicant Question:**

Re: Open Question to the NPCC: Lawful Authority for National "Do Not Record" Assessments

I am writing openly and in the public interest to seek clarification from the National Police Chiefs' Council on a matter of national policing governance, arising from official NPCC-related correspondence dated 14 February 2022 in which the recipient was Owen Weatherill.

That correspondence states, in terms, that:

- crime reports were not being formally recorded across forces,
- national "assessments" nevertheless existed as to whether the practice was occurring "across the country", and
- that the "guidance to not record" was regarded as a success, with only one additional report identified nationally.

In light of this, I ask the following question, which I trust the NPCC will recognise as both legitimate and absolutely necessary:

If crime reports were not being formally recorded, yet national assessments existed confirming that "guidance to not record" was being followed across the country and evaluated as a success, by what lawful authority were such national assessments compiled, from what data sources were they derived and how does this practice comply with the National Crime Recording Standard and the statutory duties owed to victims?

This question does not seek to determine criminal liability, nor does it invite speculation. Rather, it seeks clarification of process, authority and compliance in relation to nationally coordinated policing practice.

Given the constitutional importance of accurate crime recording, public confidence in policing and the NPCC's explicitly stated commitment to openness and accountability, I consider it appropriate that this question is answered fully and transparently.

**NPCC Response:**

Section 17 of the Freedom of Information Act 2000 requires the NPCC, when refusing to provide information by way of exemption, to provide you with a notice, which, (a) states that fact (b) specifies the exemption in question, and (c) states why the exemption applies. In accordance with the Freedom of Information Act 2000 this letter acts as a refusal notice for your request.

The Freedom of Information creates a statutory right of access to information held by public authorities. Section 1(1) of the FOI Act provides that any person making a request for information to a public authority is entitled:

- (a) To be informed in writing by the public authority whether it holds information of the specified in the request, and
- (b) if that is the case, to have that information communicated to him.

That right of access to information is not without exception and is subject to a number of exemptions and other provisions under the Act, including Section 14(1) which provides:

Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious.

**Section 14(1) the legislation**

- (1) Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious.

Under Section 14(1) of the Act, public authorities do not have to comply with vexatious request. There is no public interest test and no requirement to provide any information or confirm or deny whether the information is held.

Section 14(1) may be used in a variety of circumstances where a request, or its impact on a public authority, cannot be justified.

The term 'vexatious' is not defined in the legislation in [ICO vs Devon County Council & Dransfield](#) the Upper Tribunal defined the purpose of Section 14 as '...must be to protect the resources (in the broadest sense of that word) of the public authority from being squandered on disproportionate use of FOIA....'.

The Tribunal commented that vexatious could be defined as the 'manifestly unjustified, inappropriate or improper use of a formal procedure'. The Tribunal's definition clearly establishes that the concepts of proportionality and justification are relevant to any consideration of whether a request is vexatious.

To identify and deal with a vexatious request the ICO suggests that there are some typical key features of a vexatious request and four broad themes:

1. The burden (on the public authority and its staff);
2. The motive (of the requester);
3. The value or serious purpose (of the request); and
4. Any harassment or distress (of and to staff).

The ICO states that the key test to determine whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress. A starting point is to assess the value or purpose of the request. When considering the issue, the Upper Tribunal in Dransfield asked itself, “Does the request have a value or serious purpose in terms of there being an objective public interest in the information sought?” (paragraph 38). The public interest can encompass a wide range of values and principles relating to what is in the best interests of society, including, but not limited to:

- Holding public authorities to account for their performance;
- Understanding their decisions;
- Transparency; and
- Ensuring justice.

When considering the amount of work that would be involved in dealing with a request and whether it would impose an unreasonable burden, the NPCC takes into account the level of resources available. There are two NPCC FOI Decision Makers and the threshold at which the burden becomes grossly oppressive is lower than for a larger public authority with many staff.

It is common for a potentially vexatious request to be the latest in a series of requests submitted. The greater the number of requests received, the more likely it is that the latest request is vexatious. This is because the collective burden of dealing with the previous requests, combined with the burden imposed by the latest request, becomes a tipping point, rendering the latest request vexatious.

In addition, the pattern of request is overwhelming with numerous requests made in quick succession. Requests are submitted before the NPCC has had the opportunity to respond to previous requests. The Upper Tribunal in Dransfield said: “A requester who consistently submits multiple FOIA requests or associated correspondence within days of each other, or relentlessly bombards the public authority with e-mail traffic, is more likely to be found to have made a vexatious request” (paragraph 32).

The ICO provides advice on Duration. Where requests have been submitted over a long period, possibly years, this may indicate that requests will continue to be made in the future. Therefore, even if the latest request appears entirely reasonable, when viewed in isolation, you may take into account the anticipated burden of those future request when assessing burden.

It is also recognised that a request which is the latest in a series demonstrating obsessive behaviour can have the effect of harassing staff due to the collective burden they place on staff.

In [Rod Cooke vs IC EA/2018/0028 23 July 2018](#) the Tribunal considered requests made to Kirby Cane and Ellingham Parish Council regarding a dispute over the ownership of a certain piece of land. When looking at any harassment or distress caused to the parish council the Tribunal stated that:

“We do not find that the appellant has deliberately harassed or caused distress to the Council members or clerk. Nonetheless, we note that there has been a considerable volume of correspondence over a number of years directed at a single issue. In the context of a small council run by volunteers and a part time clerk, we find that the burden of dealing with this matter would potentially cause a feeling of harassment and distress to the individuals involved.” (paragraph 26).

Your request relates to similar requests previously received by you, all related to Operation Talla and the NPCC response to Covid-19:

2707/2025 – Op Talla Ethic Committee  
2264/2025 – NPCC Advice Issued Op Talla  
2329/2025 – IR Review of 2264/2025  
2368/2025 – Disclosures re Operation Talla and Covid 19 Policing  
2414/2025 – NPoCC Direction during Operation Talla  
2422/2025 – Op Talla Vaccine Related Information  
2469/2025 – Follow Up 2414/2025 Op Talla Covid –19 Vaccination Programme  
2519/2025 – IR of 2469/2025 Op Talla Information  
2558/2025 – Op Talla Directives vs Operation Talla Awards  
2693/2025 - Dates of Referral and Response Relating to CRN 6029679/21

On the 22/10/2025, the NPCC issued you a Section 14 Vexatious warning, advising you that any further requests would be considered in line with Section 14, considering the volume of requests received, not just by the NPCC FOI Mailbox, but other forms of contact within the NPCC and the repeated theme of your requests having repeatedly advised of the structure of the NPCC; considering the hundreds and thousands of records generated relating to Operation Talla, the UK policing response to the COVID 19 pandemic and the ongoing public inquiry.

This latest request is as similarly broad as your previous requests, without time parameters in which to search, and seeks a large volume of information including but limited to minutes, notes, briefing papers, advice notes, summaries, emails and other correspondence, memoranda, or other records produced by, for, or referring to the Operation Talla Ethics Committee.

In line with the above considerations we note that communication has continued to be received into the NPCC, both into the NPCC FOI mailbox but other forms of contact within the NPCC and therefore this letter acts as your refusal notice to this latest request.

Yours sincerely

Freedom of Information Officer & Decision Maker

[www.npcc.police.uk](http://www.npcc.police.uk)

## COMPLAINT RIGHTS

### Internal Review

Any request for an internal review will be acknowledged and responded to, based on the specific wording of your initial request only.

We ask that any rationale to request an internal review, does not include any requests for new information and ask that these be submitted by separate email. We will acknowledge as a new request and aggregate to your initial request in compliance with the legislation.

If you are dissatisfied with the response you have been provided with in compliance with the Freedom of Information legislation, you can lodge a complaint with NPCC to have the decision reviewed within 40 working days of the date of this response.

The handling of your request will be looked at by someone independent of the original decision and a fresh response provided.

It would be helpful, if requesting a review, for you to articulate in detail the reasons you are not satisfied with this reply.

If you would like to request a review, please write or send an email to NPCC Freedom of Information, c/o PO Box 481, Fareham, Hampshire, PO14 9FS.

**Annex A**

Section 17 of the Freedom of Information Act 2000 requires the NPCC, when refusing to provide information by way of exemption in question and (c) states why the exemption applies. In accordance with the Freedom of Information Act 2000 this letter acts as a refusal notice to those aspects of your request.

**Legislation – Section 16**

- (1) It shall be the duty of a public authority to provide advice and assistance, so far as it would be reasonable to expect the authority to do so, to persons who propose to make, or have made, requests for information to it.



On January 19, 2026, at 14:28, NPCC FOI Request Mailbox <npcc.foi.request@npfdu.police.uk> wrote:

Good Afternoon

The NPCC noted your email dated 12/01/2025 which states that you did not intend your request to be treated as Freedom of Information (FOI). However, in circumstances where the public authority is unable to provide a substantive answer outside of this framework, treating the correspondence as an FOI request ensures that the request is considered lawfully, consistently and transparently, and that you benefit from the rights and safeguards set out in the legislation.

Therefore, please find attached NPCC response to your Freedom of Information request.

With kindest regards.

**NPCC Freedom of Information Officers & Decision Makers**

National Police FOI & DP Central Referral Unit (NPFDU)

**A** | NPFDU PO Bx 841, Fareham, Hampshire, PO14 9FS

**E** | npcc.foi.request@npfdu.police.uk

**W**| [www.npcc.police.uk](http://www.npcc.police.uk)

On January 12, 2026, at 19:58, Ethical Approach UK  
<[ethicas@ethicalapproach.co.uk](mailto:ethicas@ethicalapproach.co.uk)> wrote:

Dear NPCC FOI Team

The correspondence from me is not an FOI request, as you will plainly see.

It requires a response from the Chief Officer at NPCC, as addressed.

As it has been misdirected to you internally, then that is a matter for internal NPCC resolution. I shall therefore leave it with you to

resolve appropriately on an internal basis with your appropriate colleagues.

Kind regards

Ian

Ian Clayton

Lead Investigator

Ethical Approach UK.

On January 12, 2026, at 13:29, NPCC FOI Request Mailbox  
<npcc.foi.request@npfdu.police.uk> wrote:

Good Afternoon,

The below correspondence has been passed to the NPCC FOI mailbox.

Date Received: 18/12/2025

FREEDOM OF INFORMATION REQUEST REFERENCE NUMBER:  
2725/2026

Your request for information under the Freedom of Information Act (highlighted yellow) was received by the NPCC on the date listed above.

NPCC Acknowledgement:

Your request will be considered in accordance with the legislation, and you will receive a response within the statutory timescale of 20 working days, subject to the provisions of the Act. In the unlikely event that NPCC is unable to meet the 20-working day deadline, you will be informed as soon as possible and given a revised timescale for response.

If your request requires full or partial transference to another public authority, you will be informed. Should you have any further enquiries concerning this matter, please write quoting the reference number above.

Kind regards

NPCC Freedom of Information Officers & Decision Makers National  
Police FOI & DP Central Referral Unit (NPFDU)

A | NPFDU PO Bx 841, Fareham, Hampshire, PO14 9FS  
E | npcc.foi.request@npfdu.police.uk  
W | www.npcc.police.uk

Senior Leadership Office  
National Police Chiefs' Council (NPCC)  
10 Victoria Street  
London  
SW1H 0NN

From:

Ian Clayton  
Lead Investigator  
Ethical Approach UK

Date: 10 December 2025

**Please note - this is not a Freedom of Information request**

## **Re: Clarification Request Concerning the NPCC's National Non-Recording Practice Under Operation Talla**

Dear Sir/Madam

I am writing to request formal clarification regarding matters arising from official documentation now in the public domain, which indicate that the National Police Chiefs' Council operated and centrally monitored a national practice of not recording certain COVID-19-related crime allegations during Operation Talla.

I make this request in light of the NPCC's statutory responsibilities, its role in national policing coordination and the need for transparency in matters affecting public confidence and the integrity of crime-recording standards.

### **1. Internal NPCC Correspondence**

An internal NPCC email dated 14 February 2022 refers to:

***“the guidance to not record”*** and states that this guidance ***“has been a success as only one additional report has been created.”***

This appears to confirm:

the existence of a national practice discouraging or preventing crime recording;

central monitoring of forces' compliance;

and performance assessment based on the suppression of recorded crime.

## **2. Police Scotland Directive (“The Speirs Directive”)**

A directive issued on 25 January 2022 by Assistant Chief Constable Alan Speirs, released under FOI, states it was issued:

***“on the advice of the NPCC and UK Gold Command.”***

The directive instructed officers not to accept or record certain allegations and to divert such reports into SID/CVI systems rather than generate crime reports.

### **3. Public FOI Position**

In contrast, NPCC FOI responses have stated that the NPCC holds:

***“no record of advice or guidance not to accept communications relating to Covid...”***

The discrepancy between these FOI statements and the internal email requires formal clarification.

### **4. Request for Clarification**

In light of the above, I respectfully request clear answers to the following:

(1) Did the NPCC formulate, circulate, endorse or advise upon any guidance instructing, encouraging or supporting forces not to record COVID-19-related crime allegations?



(2) How does the NPCC reconcile the internal correspondence referring to “**guidance to not record**” with the NPCC’s public FOI responses indicating that no such guidance existed?

(3) Which individuals or committees within the NPCC authorised or oversaw the monitoring of forces’ compliance with this non-recording practice?

## **5. Importance of Clarity**

These matters raise questions of:

compliance with NCRS and HOCR,  
statutory duties under CPIA 1996,  
adherence to the Victims’ Code,  
and the proper functioning of national policing governance.

Given the significant public interest in the integrity of crime-recording and investigative standards, I would be grateful for a response at your earliest convenience.

A formal acknowledgment of receipt of this current email from me is also requested.

Yours faithfully

Ian Clayton

Lead Investigator

Ethical Approach UK

From:

Ethical Approach UK

To:

- (1) Crown Prosecution Service
- (2) His Majesty's Courts and Tribunals Service
- (3) His Majesty's Inspectorate of Constabulary and Fire and Rescue Service
- (4) The Home Office
- (5) Ministry of Justice
- (6) South Wales Police
- (7) National Police Chiefs' Council
- (8) House of Commons Public Administration and Constitutional Affairs Committee
- (9) Solicitors Regulation Authority

Cc: Ian Clayton, Ethical Approach UK

Date: 27 January 2026 at 00:06

Dear Sir or Madam

## **Re: Formal Notice of Expired Response Period and Publication of Correspondence**

I write further to my previous correspondence and the reminder issued on 19 January 2026, in which a clear and reasonable timeframe for response was provided.

No substantive response has been received from any addressee within that advised period.

In the circumstances and given the constitutional and public-interest issues raised, it is now necessary to proceed on the reasonable basis that no response is forthcoming.

Accordingly, the response window is now considered closed.

The correspondence, together with supporting materials, will now be published in the public domain in order to preserve an accurate and complete evidential record and to ensure transparency in matters concerning public administration and statutory accountability.

For the avoidance of doubt, the absence of substantive response within the specified timeframe will stand on the public record as a non-response.

Should any communication be received after this point, it will not alter that position but will be published alongside the existing material so that the record remains complete and contemporaneous.

Yours faithfully

Ian Clayton

Lead Investigator

Ethical Approach UK

From:

Ethical Approach UK

To:

Home Office

Date:

19 January 2026 at 06:30

Dear Sir or Madam

I write further to my correspondence sent to you in December 2025, a copy of which is attached.

To date, no substantive response has been received.

Given the constitutional seriousness of the matters raised , including issues of policing governance, prosecutorial independence, judicial visibility, disclosure integrity and the operation of national coordination frameworks during Operation Talla, continued institutional silence is itself a matter of public significance.

I therefore write to give formal notice of the following.

If a fully substantive response is not received by close of business on Monday 26 January 2026, Ethical Approach UK will proceed on the basis that institutional silence constitutes the response and will record and rely upon that position accordingly.

No extension of time will be assumed or granted in the absence of an express request accompanied by a clear explanation.

For the avoidance of doubt, this correspondence is not adversarial. It is directed to ensuring constitutional clarity, accuracy of the public record and public confidence in the integrity of the justice system. However, silence cannot be treated as neutral where the matters raised go to the heart of governance, accountability and the rule of law.

This follow-up is sent in the public interest and will be retained as part of the ongoing evidential and documentary record.

Yours faithfully

Ian Clayton

Lead Investigator

Ethical Approach UK

From:

Ethical Approach UK

To:

Home Office

Date:

24 December 2025 at 02:09

Dear Mr Foley

Thank you for your letter dated 9 October 2025 (DECS reference: TRO/1392745/25). Copy attached for your convenience.

I write to seek formal clarification of several assertions made in your correspondence, in light of official material now in the public domain concerning Operation Talla and associated criminal justice coordination structures.

#### 1. Operational independence - factual clarification required

Your letter states that:

*“the police are operationally independent of Government and, therefore, Ministers and officials are unable to comment on or intervene in individual cases and police operational procedures.”*

Whilst this principle is well-established in general terms, it is no longer sustainable to assert it in absolute form in circumstances where the Home Office is now evidenced to have been directly engaged with national policing command structures during Operation Talla.



Specifically:

- Official testimony to the UK Covid-19 Inquiry confirms that Operation Talla operated as a centrally coordinated national policing framework, under NPCC Gold command, with close and continuous liaison with the Home Office.
- Senior NPCC witnesses have confirmed that Operation Talla was “run from the centre” and worked “incredibly closely” with Home Office teams managing the Government response.
- The former Home Secretary, Rt Hon Priti Patel MP, publicly acknowledged and praised Operation Talla in her speech at the Operation Talla Awards Ceremony in June 2022, corroborating executive-level engagement with the programme.

In that context, the Home Office cannot reasonably rely on a general statement of operational independence without addressing the specific governance arrangements under which Operation Talla operated.

## 2. Relevance to the Metropolitan Police Service matter

Your letter further suggests that the Metropolitan Police matter to which my correspondence relates was a routine operational decision, insulated from Government involvement.

However, the handling of that matter:

- Fell squarely within the Operation Talla framework;
- Was subject to national coordination and assessment, including NPCC involvement;
- Was contemporaneous with centrally issued guidance affecting crime recording and investigative pathways; and
- Occurred during the operation of cross-government criminal justice coordination structures, including the Criminal Justice System Strategic Command (CJSSC).

It is therefore inaccurate to characterise the case as a purely local operational matter divorced from national or executive-level structures.

### 3. Need for constitutional precision

I am not asserting that Ministers intervened in individual investigative decisions.

Rather, the issue is that the Home Office was demonstrably involved in national policing and justice coordination mechanisms whose practical effect was to influence how, when and whether certain matters reached normal investigative and judicial pathways.

That distinction matters constitutionally.

Where executive-linked structures shape the environment in which operational decisions are taken, a blanket assertion of non-involvement risks obscuring, rather than clarifying, the true governance position.

#### 4. Clarification requested

Accordingly, I would be grateful if you could clarify the following:

1. Whether the Home Office accepts that it was engaged, directly or indirectly, with Operation Talla as a national policing coordination framework;
2. How that engagement is reconciled with the assertion that Ministers and officials were unable to comment on or intervene in matters handled within that framework;
3. Whether the Home Office considers that cases handled under Operation Talla can properly be described as wholly insulated from executive-level justice coordination.

This request is made in the interests of constitutional accuracy and public confidence, not adversarial dispute.

Given the volume of official material now available, clarity on these points is increasingly important.

I would be grateful to receive your considered response.

Yours sincerely

Ian Clayton

Lead Investigator  
Ethical Approach UK

Email: [ethics@ethicalapproach.co.uk](mailto:ethics@ethicalapproach.co.uk)



Home Office

Direct Communications Unit

2 Marsham Street  
London SW1P 4DF

[www.gov.uk/home-office](http://www.gov.uk/home-office)

Email: [public.enquiries@homeoffice.gov.uk](mailto:public.enquiries@homeoffice.gov.uk)

Mr Ian Clayton  
Lead Investigator  
Ethical Approach UK  
[ethics@ethicalapproach.co.uk](mailto:ethics@ethicalapproach.co.uk)

DECS Reference: TRO/1392745/25

9 October 2025

Dear Mr Clayton,

Thank you for your email of 16 August to the Cabinet Office regarding your complaint concerning the Metropolitan Police. Your email has been transferred to the Home Office for a reply, and I am sorry for the delay in responding to your email.

Regarding police investigations, it might be helpful if I explain that the police are operationally independent of Government and, therefore, Ministers and officials are unable to comment on or intervene in individual cases and police operational procedures. This is to ensure the police can carry out their duties independently and make decisions free from political influence. When a criminal allegation has been reported to the police, it is a matter for their professional judgement and discretion on how they proceed in each case. They are responsible for deciding what action they consider appropriate and whether there are sufficient grounds to launch a criminal investigation. As with all offences individual investigatory decisions are matters for the operational judgement of the police based on the circumstances they are confronted with. Therefore, if you are dissatisfied with the way the police have responded to a particular incident, I would advise you to contact them directly.

For the reasons stated above, this is not a process in which the Home Office can intervene. Nevertheless, the Government recognises the need for a formal system of police complaints that enables members of the public to raise concerns about the service they have received.

Police complaints are dealt with under a comprehensive legislative framework which sets out the duties of the police themselves in handling complaints as well as the role and functions of the Independent Office for Police Conduct (IOPC), the body which provides oversight of police complaints and investigates the most serious and sensitive matters involving the police.

It is important to note that while the Government is responsible for the legislation under which police complaints are handled, it would not be appropriate for Ministers or officials to comment on, or intervene in, a specific case. This reflects the operational independence of the police and the need for the police to be able to carry out their duties, and make decisions, free from political influence.

When a complaint is made it is right that the police have an opportunity to consider and respond to the matters raised. At the same time, the Government recognises that public confidence is vital to the British model of policing by consent and therefore by law, police forces must refer the most serious allegations about the conduct of a person serving with the police to the IOPC. This ensures an independent decision is taken, in each such case, on how the complaint should be handled.

A complaint should be made directly to the relevant police force. Police force websites include information about how to complain. Further details can be found on the Metropolitan Police website at: [Search - how to make a complaint | Metropolitan Police](#).

Alternatively, a complaint can also be made via an online form available on the website of the IOPC at: <https://www.policeconduct.gov.uk/complaints/submit-a-complaint>.

A short guide to the police complaints system is also available on the IOPC's website at: <https://www.policeconduct.gov.uk/complaints/guide-to-complaints-process>.

You will understand that, in common with most complaints systems, the usual process is for matters to be investigated firstly by the police force itself.

Yours sincerely,

Mr B Foley

From:

Ethical Approach UK

To:

- (1) Crown Prosecution Service
- (2) His Majesty's Courts and Tribunals Service
- (3) His Majesty's Inspectorate of Constabulary and Fire and Rescue Service
- (4) The Home Office
- (5) Ministry of Justice
- (6) South Wales Police
- (7) National Police Chiefs' Council
- (8) House of Commons Public Administration and Constitutional Affairs Committee
- (9) Solicitors Regulation Authority

Cc:

Ian Clayton, Ethical Approach UK

Date:

27 January 2026 at 00:06

Dear Sir or Madam

## **Re: Formal Notice of Expired Response Period and Publication of Correspondence**

I write further to my previous correspondence and the reminder issued on 19 January 2026, in which a clear and reasonable timeframe for response was provided.

No substantive response has been received from any addressee within that advised period.

In the circumstances and given the constitutional and public-interest issues raised, it is now necessary to proceed on the reasonable basis that no response is forthcoming.

Accordingly, the response window is now considered closed.

The correspondence, together with supporting materials, will now be published in the public domain in order to preserve an accurate and complete evidential record and to ensure transparency in matters concerning public administration and statutory accountability.



For the avoidance of doubt, the absence of substantive response within the specified timeframe will stand on the public record as a non-response.

Should any communication be received after this point, it will not alter that position but will be published alongside the existing material so that the record remains complete and contemporaneous.

Yours faithfully

Ian Clayton

Lead Investigator

Ethical Approach UK

From:

Ethical Approach UK

To:

The Solicitors Regulation Authority

Date:

19 January 2026 at 06:43

Dear Sir or Madam

**Re: Reminder and Notice - Previous Correspondence addressing  
SRA Chair and CEO**

I write further to my correspondence sent to you in December 2025,  
a copy of which is attached.

To date, no substantive response has been received.

Given the constitutional seriousness of the matters raised ,  
including issues of policing governance, prosecutorial  
independence, judicial visibility, disclosure integrity and the  
operation of national coordination frameworks during Operation  
Talla, continued institutional silence is itself a matter of public  
significance.

I therefore write to give formal notice of the following.

If a fully substantive response is not received by close of business on Monday 26 January 2026, Ethical Approach UK will proceed on the basis that institutional silence constitutes the response and will record and rely upon that position accordingly.

No extension of time will be assumed or granted in the absence of an express request accompanied by a clear explanation.

For the avoidance of doubt, this correspondence is not adversarial. It is directed to ensuring constitutional clarity, accuracy of the public record and public confidence in the integrity of the justice system. However, silence cannot be treated as neutral where the matters raised go to the heart of governance, accountability and the rule of law.

This follow-up is sent in the public interest and will be retained as part of the ongoing evidential and documentary record.

Yours faithfully

Ian Clayton

Lead Investigator

Ethical Approach UK

From:

Ethical Approach UK

To:

The Solicitors Regulation Authority

Date:

15 December 2025 at 16:21

**Constitutional Correspondence for the attention of:**

(1) Anna Bradley, Chair, Solicitors Regulation Authority

(2) Sarah Rapson, Chief Executive Officer, Solicitors Regulation Authority

Date: 15 December 2025

Dear Ms Bradley and Ms Repson

**Re: Constitutional correspondence: - Regulatory independence concerns arising from Operation Talla**

I write to you in your respective capacities as Chair and Chief Executive of the Solicitors Regulation Authority, to place the SRA on formal notice of constitutional concerns arising from an ongoing independent investigation into Operation Talla, the UK-wide policing response to Covid-19.

That investigation has been underway for almost ten months and has now reached a stage at which the evidence raises serious questions of constitutional integrity, including the maintenance of proper institutional boundaries between policing, Government policy functions and professional regulation.

This correspondence is constitutional in nature. It is not a complaint about any individual regulatory outcome, nor is it a request made under the SRA's disclosure policy. Rather, it concerns matters of governance, independence and public confidence in the regulatory framework itself.

Evidence now in our possession indicates that, during the Covid period, regulatory powers may have been engaged in circumstances where:

- contested questions of alleged criminality had not been judicially determined;
- public-interest legal advocacy was potentially treated as a regulatory risk rather than as a lawful professional function;
- preventive or anticipatory regulatory measures were contemplated or threatened in connection with the content of legal representations or communications, rather than established misconduct;
- external narratives originating from policing, Government departments, or policy-protection considerations may have been relied upon or adopted in regulatory decision-making; and
- questions were raised, contemporaneously, about the fettering of professional independence, disclosure fairness and the sharing of regulatory information beyond appropriate confines.

Taken cumulatively, these matters raise issues which go beyond case-specific regulation and engage fundamental constitutional principles, including regulatory independence, the prohibition on prior restraint and the protection of lawful professional activity within a democratic society governed by the rule of law.

In light of the seriousness of these issues, I now formally request clarification at governance level on a number of points relating to

the SRA's policies, safeguards and practices during the Covid period. A separate document setting out specific questions is provided for your consideration. This separate document is attached to this email.

Given the constitutional character of the concerns, it is important that any response is full, accurate and demonstrably independent and that relevant records are preserved pending resolution of these matters.

I would be grateful if you could acknowledge by urgent return, receipt of this correspondence and confirm the senior individual who will take responsibility for coordinating a consolidated response.

Yours sincerely

Ian Clayton

Lead Investigator

Ethical Approach UK

Email: [ethics@ethicalapproach.co.uk](mailto:ethics@ethicalapproach.co.uk)

**Attachment:**

*questions\_for\_SRA\_re\_op\_talla\_investigation.pdf*



## **Solicitors Regulation Authority - Constitutional Correspondence - Points and Questions Arising Incidental to EAUK Investigation into Operation Talla**

This document accompanies constitutional correspondence addressed to the Chair and Chief Executive of the Solicitors Regulation Authority. It raises matters of governance, independence and constitutional propriety arising from evidence obtained during an ongoing independent investigation into Operation Talla, the UK-wide policing response to Covid-19.

The questions below are not framed by reference to any individual regulatory case. They are directed instead to the policies, safeguards, and institutional practices of the SRA during the Covid period, where professional regulation intersected with policing activity, Government policy objectives and contested questions of alleged criminality.

### **A. Regulatory independence and constitutional safeguards**

1. What formal safeguards does the SRA maintain to ensure that its regulatory powers cannot be used directly or indirectly advance, reinforce, or protect Government policy objectives, particularly during periods of declared emergency or heightened public policy sensitivity?

2. During the Covid period, what additional governance measures (if any) were implemented to ensure that the SRA remained demonstrably independent from:

- policing bodies,
- Government departments,
- or policy-protection functions concerned with “misinformation”, “disruption”, or public confidence?

3. How does the SRA ensure that its interpretation of the “public interest” does not drift from protection of the public and the rule of law into protection of government executive policy positions?

## **B. Interaction with policing bodies and policing narratives**

4. During the Covid period, did the SRA have any communications, formal or informal, with policing bodies or policing-linked legal or communications teams regarding:

- Covid-related legal advocacy,
- allegations of criminality,
- or public communications said to undermine public confidence or policy objectives?

5. If so, how does the SRA ensure that policing statements, press releases, or public-facing police narratives are not treated as determinative facts for regulatory purposes, particularly where no court has adjudicated the underlying issues?

6. Does the SRA accept that reliance upon policing statements as a regulatory baseline risks collapsing the constitutional separation between policing, adjudication and professional regulation?

### **C. Preventive or anticipatory regulatory action**

7. What is the SRA's constitutional and legal justification for contemplating or threatening preventive or anticipatory regulatory measures (including practising certificate conditions or undertakings) in circumstances where:

- no findings of misconduct have been made, and
- the concern relates primarily to the content of legal representations, advocacy, or communications?

8. How does the SRA ensure that such preventive measures do not amount to prior restraint on lawful professional activity or expression?

9. What specific tests are applied to distinguish:

- robust or controversial legal advocacy, from
- conduct properly capable of regulatory sanction?

#### **D. Allegations of criminality and reporting to law enforcement**

10. Does the SRA accept that it is not constitutionally competent to determine whether alleged criminality exists and that such determinations are reserved to the courts?

11. On what basis, if any, would the SRA consider it improper for a solicitor to:

- allege criminal conduct on behalf of a client, or
- provide evidence or material to law enforcement bodies, where criminal liability is arguable but unresolved?

12. What safeguards exist to ensure that regulatory action does not deter or inhibit the reporting of alleged criminal conduct to the police or other competent relevant authorities?

### **E. Complaints originating from state-linked or political sources**

13. What enhanced scrutiny or safeguards apply where reports to the SRA originate from:

- Government departments or contractors,
- political office-holders or parliamentarians,
- or professional bodies acting as conduits rather than complainants?

14. During the Covid period, were any such reports treated as requiring expedited or heightened regulatory response and if so, on what constitutional or legal basis?

## **F. Disclosure, anonymity, and procedural fairness**

15. What principles govern the SRA's approach to:

- anonymous or pseudonymous reports,
- redaction of complainant identity, where regulatory action may materially affect professional independence or reputation?

16. How does the SRA ensure that anonymity is not misused to shield policy-motivated or strategic complaints from proper scrutiny?

17. What steps are taken to ensure that those subject to investigation are given sufficient information to understand, test and respond to the substance of regulatory concerns?

### **G. Information sharing, data protection and narrative alignment**

18. What controls exist to prevent the premature or inappropriate sharing of information about regulatory interest or investigation with:

- media organisations,
- third-party “fact-checking” bodies,
- or other external actors?

19. How does the SRA ensure compliance with data protection principles where information is shared in contexts that may influence public narrative or reputational standing?

## **H. Records, auditability, and independent scrutiny**

20. What records are retained that would allow an independent reviewer to reconstruct:

- the origin of Covid-related regulatory concerns,
- any external contacts or influences,
- the rationale for preventive or restrictive measures,
- and the internal decision-making process?

21. Will the SRA confirm that all relevant records, including emails, internal messages, notes, drafts and external correspondence are preserved pending resolution of these constitutional matters?

### **Closing clarification**

These questions are posed in the public interest and in furtherance of constitutional accountability.



They are directed to institutional practice, not to individual conduct and seek to ensure that professional regulation remains independent, proportionate and firmly anchored to the rule of law.

***Ian Clayton***

***Lead Investigator, Ethical Approach UK***

To:

The Chair

Public Administration and Constitutional Affairs Committee  
(PACAC)

House of Commons

London

SW1A 0AA

cc:

The Chair, Justice Committee

The Chair, Home Affairs Committee

From:

Ian Clayton

Lead Investigator

Ethical Approach UK

Date: 10 December 2025

Attached Document (PDF):

*IC\_10122025\_NPCC\_TALLA.pdf*

**Re: Request for Clarification Concerning the NPCC's National  
Non-Recording Practice Under Operation Talla**

Dear Chair

I am writing to draw the Committee's attention to a matter of significant constitutional and public-administration importance arising from official documentation recently released into the public domain.

## **1. Summary of Issue**

Evidence now available from FOI disclosures, internal police correspondence and national directives indicates that the National Police Chiefs' Council (NPCC) operated and centrally monitored a UK-wide practice under Operation Talla, whereby police forces were discouraged or instructed not to record certain categories of

crime reports relating to the COVID-19 vaccine programme and related COVID-19 matters.

One internal NPCC email dated 14 February 2022 states:

***"It would appear that the guidance to not record has been a success as only one additional report has been created."***

This correspondence appears to confirm:

the existence of guidance "to not record" such allegations,

that this guidance was national in scope, and

that forces were monitored centrally for compliance.

These findings are inconsistent with:

the National Crime Recording Standard (NCRS),

the Home Office Counting Rules (HOCR),

statutory duties under the Criminal Procedure and Investigations Act 1996 (CPIA),

the Victims' Code,

and basic constitutional expectations concerning impartial policing and proper public administration.

A detailed briefing paper summarising the evidence has today been published and is attached, hereto, as well as being available to members of the public via the following download link:

[https://ethicalapproach.co.uk/IC\\_10122025\\_NPCC\\_TALLA.pdf](https://ethicalapproach.co.uk/IC_10122025_NPCC_TALLA.pdf)

## **2. Nature of the Concerns**

The documentation suggests the following:

1. A national policing practice existed which suppressed the recording of certain criminal allegations.

2. The NPCC appears to have assessed force-level compliance, describing the suppression of recorded crime as a measure of “**success**”.

3. Police Scotland has confirmed that a directive (25 January 2022), issued “**on the advice of the NPCC and UK Gold Command**”, instructed officers not to accept or record such allegations.

4. These practices appear irreconcilable with the legal duties imposed upon police forces to record crime, initiate investigation, pursue reasonable lines of inquiry and retain submitted material.

5. There is a direct contradiction between NPCC internal correspondence and NPCC public FOI responses, in which the NPCC stated it held no record of such guidance.

Given the statutory and constitutional dimensions, these matters appear to fall directly within PACAC’s oversight of public-administration propriety, transparency and the constitutional functioning of public bodies.



### **3. Matters Requiring Clarification**

In light of the above, I respectfully request that the Committee seek formal clarification from the NPCC, the Home Office and the relevant policing bodies on the following questions:

1. Did the NPCC formulate, circulate, endorse, or rely upon guidance instructing forces not to record certain COVID-19 vaccine-related crime allegations?
2. What was the origin, scope, and legal basis of the “guidance to not record” referenced in internal NPCC correspondence?
3. Which individuals or committees approved this practice within the Operation Talla command structure?

4. How were police forces' compliance with this guidance monitored nationally?
5. How does such a practice align with NCRS, HOOCR, CPIA 1996 and the Victims' Code?
6. How many crime reports were affected by this system nationally?
7. Why do NPCC FOI responses contradict internal NPCC documentation?
8. What role did the Home Office play, given its own statement that it acted as the ***"central link"*** between Government policy and Operation Talla's police operations?

#### **4. Public Interest and Constitutional Significance**

The existence of a national system for the suppression of crime recording, especially one monitored at the highest levels of police coordination, raises issues of:

constitutional accountability,

administrative propriety,

policing independence,

statutory compliance, and

public trust in the rule of law.

**To Conclude this Communication**

The evidence published to date warrants formal scrutiny by the appropriate parliamentary committees. I therefore place this matter respectfully before PACAC and request that the Committee consider whether further inquiry or clarification should now be sought.

I would be pleased to provide any additional documentation, evidence, or testimony the Committee may require.

Your formal acknowledgement of receipt of this correspondence sent to you today is hereby requested, for the public record.

Yours faithfully

Ian Clayton

Lead Investigator

Ethical Approach UK

# **Public Notice**

## **Closure of Correspondence and Publication of Record Operation Talla - Constitutional and Public Interest Matters**

Over recent months, Ethical Approach UK has issued formal written correspondence to multiple public bodies and statutory institutions concerning constitutional, legal and accountability issues arising from Operation Talla and associated policing and justice arrangements.

Those institutions include:

- Crown Prosecution Service
- His Majesty's Courts and Tribunals Service
- His Majesty's Inspectorate of Constabulary and Fire & Rescue Services
- The Home Office
- Ministry of Justice
- South Wales Police
- National Police Chiefs' Council

- House of Commons Public Administration and Constitutional Affairs Committee
- Solicitors Regulation Authority

Each addressee was:

- provided with detailed written questions,
- given relevant evidential context,
- invited to provide clarification or correction, and
- afforded a clear and reasonable timeframe for substantive response.

A formal reminder was subsequently issued.

## **Position**

As of the stated deadline, no substantive responses addressing the constitutional issues raised have been received.

Accordingly:

- the response period is now closed;
- the absence of reply stands as a matter of record; and
- the correspondence process is deemed concluded.

## **Publication**

In the public interest and in order to preserve:

- transparency,
- evidential integrity, and
- an accurate historical record of engagement,

all correspondence, supporting material and relevant documentation will now be placed into the public domain.

This step is not adversarial. It is procedural.

Where matters concern the constitutional functioning of policing, prosecution and justice institutions, public visibility is both legitimate and necessary.

## **Late Communications**

Any communication received after the expiry of the response window:

- will not alter the recorded non-response to date,
- but will be published alongside existing materials so the record remains complete and contemporaneous.

## **Purpose**

The purpose of publication is simple:



To ensure that questions affecting the rule of law, institutional independence and public accountability are documented openly, rather than discussed privately without resolution.

Transparency protects everyone. Silence, where it occurs, speaks for itself.

Ian Clayton

Lead Investigator

Ethical Approach UK

*27 January 2026*

Witness Name: Gregor McGill

Statement No.: 1

Exhibits: 3

Dated: 12.05.23

## THE UK COVID 19 PUBLIC INQUIRY

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### Witness Statement of Gregor McGill

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I, Gregor McGill will say as follows:

1. I provide this statement on behalf of the Crown Prosecution Service ('CPS') in response to a request received on 22 November 2022 under Rule 9 of the Inquiry Rules 2006 to understand the role the CPS played in the enforcement, by way of prosecution, of the Covid Regulations and our actions during the Covid-19 pandemic ('the pandemic').

#### **Authority of Witness**

2. I have been the Director of Legal Services (DLS) at the CPS since 1 January 2016. I joined CPS London as a crown prosecutor in 1991 before progressing to the position of Branch Crown Prosecutor in 2001. In 2002 I left the CPS to join HM Customs and Excise. In 2005 I transferred to the newly formed Revenue and Customs Prosecutions Office (RCPO) and I set up and headed the Serious Organised Crime Division at RCPO in late 2005/early 2006. Following the merger of RCPO and CPS, I was appointed Head of the Fraud Prosecution Division at the CPS before taking on the role of Legal Director for CPS London in 2010. From 2012 until the end of 2015 I was the Head of the Organised Crime Division at the CPS.
3. At the time of the pandemic, I was one of two DLS's, and between us we had responsibility for line management of all Chief Crown Prosecutors ('CCP's') nationally and have ultimate responsibility for casework quality.

#### **Overview of the CPS**

4. The CPS is the independent Government Department responsible for prosecuting criminal cases investigated by the Police and other law enforcement agencies in England and Wales.
5. The CPS was created by the Prosecution of Offences Act 1985 and is headed by the Director of Public Prosecutions (DPP). As the principal prosecuting authority in England and Wales, the CPS is responsible for:
  - a) advising the Police and other law enforcement agencies on cases for possible prosecution;
  - b) reviewing cases submitted by the Police;
  - c) determining any charges in all but minor cases;
  - d) preparing cases for court, and
  - e) presenting cases at court.
6. The CPS operates across England and Wales, with 14 regional teams prosecuting cases locally ('CPS Areas'). Each of these 14 CPS Areas is headed by a CCP who is responsible for the day-to-day operation of their Area, working closely with local police forces and other criminal justice partners. CPS Direct (CPSD) is a 'virtual' 15<sup>th</sup> CPS Area, operating nationally to provide 'out of hours' charging advice to the police and other investigators. It is also headed by a CCP. Finally, we have three Central Casework Division that operate with national remit to cover specific casework such as counter-terrorism and organised crime; these are led by Heads of Division (equivalent to CCPs).
7. Areas are supported by a central headquarters team which includes our Operations, Digital, Strategy and Policy, Finance, Human Resources and Communications Directorates and the DPP's Private Office.
8. During the pandemic the CPS' role and structure remained unchanged. We continued to be responsible for the prosecution of criminal cases referred to us. However, the nature of the offences which were being investigated and referred to the CPS changed as new offences were created (see below).

## **Charging decisions**

### *The Code*

9. All criminal prosecutions brought by the CPS are governed by the Code for Crown Prosecutors ('the Code'). This is a public document which is laid before Parliament. The current version was issued in 2018.
10. The Code provides guidance to prosecutors on the general principles to be applied when making decisions about prosecutions. Prosecutors may only commence a prosecution when the case satisfies the Full Code Test. The test is set out in Chapter 4 of the Code. It has two stages: the first is the requirement of evidential sufficiency and the second involves consideration of the public interest.
11. To satisfy the first stage, a prosecutor must be satisfied that there is sufficient evidence to provide a realistic prospect of conviction. This means that an objective, impartial and reasonable jury (or bench of magistrates or judge sitting alone), properly directed and acting in accordance with the law, needs to be more likely than not to convict the defendant. It is an objective test based upon the prosecutor's assessment of the evidence (including any information that he or she has about the defence). If the case does not pass the evidential stage, then consideration of the public interest does not arise.
12. Only once a case has passed the evidential stage may the prosecutor go on to consider whether a prosecution is required in the public interest. It has never been the rule that a prosecution will automatically take place once the evidential stage is satisfied. However, a prosecution will usually take place unless the prosecutor is sure that there are public interest factors tending against prosecution which outweigh those in favour.
13. The Code sets out some common public interest factors tending for and against prosecution. However, assessing the public interest is not an arithmetical exercise involving the addition of the number of factors on each side and then making a decision according to which side has the greater number. Rather, each case must be considered on its own facts and its own merits. It is quite possible that one factor alone may outweigh a number of other factors which tend in the opposite direction. Even where there may be a number of public interest factors which tend against prosecution in a particular case, the prosecutor should consider whether the case should go ahead but with those factors being drawn to the court's attention so that they can be reflected in the sentence passed.

14. Prosecutors are supported in their decision making by centrally produced Legal Guidance, which is publicly available on our CPS website. Prosecutors should have regard to applicable policies and guidance when making their decision on charge.

#### *Director's Guidance*

15. Since 2004 the CPS has been responsible for providing authority to charge in all but minor cases, where the police can make the decision to charge. The DPP can issue guidance to the police in respect of the making of charging decisions. The first such Guidance, known as the Directors Guidance on Charging, was issued in May 2004 and explained how and in what circumstances the CPS would provide charging advice. The current Guidance (the 6<sup>th</sup> Edition) was issued in December 2020. The guidance sets out the roles and responsibilities of the police and prosecutors when seeking charging advice and details the type of charging decisions which the police can make themselves without the need for CPS authority. It sets out how and when advice can be sought from a prosecutor, and the material to be submitted in order to seek that advice.
16. During the pandemic, the new covid related offences which were developed were "summary only" offences. This means that, in line with the Director's Guidance on Charging (the fifth edition applied until 31 December 2020), the police were authorised to charge all offences under the Regulations without CPS involvement (further details below).

#### *Legal Guidance*

17. A large number of new criminal offences were introduced as part of the Government's response to the pandemic. These are contained in the Coronavirus Act 2020 ('the Act') and various Coronavirus Regulations ('the Regulations'), with separate Regulations for England, Wales and local areas.
18. The CPS produces legal guidance to support prosecutors to make fair, consistent charging decisions. The CPS produced extensive legal guidance in relation to all of the new criminal offences, save for those contained in Regulations covering specific local areas, and some of those which would be prosecuted only by local authorities. The development of this guidance was carried out at far greater speed than usual, due to the changing nature of the pandemic and the Government response in laying new and amended Regulations. This is discussed in more detail, below.



## **Corporate response**

### ***Criminal Justice System Strategic Command (CJSSC)***

19. During the pandemic, the main CPS engagement in cross-government co-ordination was through the Criminal Justice System Strategic Command (CJSSC). The CJSSC was set up by the Ministry of Justice (MOJ) Departmental Operations Centre.
20. The role of CJSSC was to “take overall responsibility for the multi-agency management of an incident or crisis, establish a common policy and strategic framework within which each contributing agencies command function will operate.” The CJSSC was to feed directly into the General Public Services Committee, chaired by the Chancellor of the Duchy of Lancaster.
21. CJSSC ‘Gold Group’ included representatives from across CJS departments, including representatives from Public Health England. The CPS was represented by the Chief Executive Officer (CEO), though executive Directors attended when the CEO was unavailable. I attended on occasion.
22. CJSSC was formally initiated on 16 March 2020 with regular (daily) meetings to start with that moved to less frequent (around 3 times / week from mid-April), then to weekly meetings from early July. CJSSC was stood down from 12 August 2020 until 30 September 2020, when the re-emergence of the virus and variants required it to be stood-up again. Thereafter it met in a weekly rhythm until well into 2021. Around September 2021 CPS representation was delegated down to Deputy Director level by the CEO. It ceased in around February 2022.
23. The group established ‘silver’ and ‘bronze’ sub-groups who provided regular strategic updates from each department represented. The CPS provided key updates relating to
  - Demand management – for example, the volume of staff not at work (abstraction rate)
  - Communications and Data – for example, the number of cases with the CPS, whether increasing or decreasing and any geographical pressures

- Progress on Silver group activities – generally from the Legal Decision-Making group, Technology Enabled group, Custody Time Limits group, Legal practitioners group and Victims and Witnesses group.
24. At 'Silver group' level a number of working groups were set up, including the following:
- **Legal Decision Making** - To ensure that mechanisms for taking legal decisions are maintained by reducing resource requirements, widening the pool of individuals that can take these decisions, delaying/reducing the need for legal decisions.
  - **Technology Enabled/ Video Enabled Justice** - To ensure that use of video hearings is maximised as far as possible by:
    - ensuring that all partners are aware of the video capability available in each court region (covering police, court and prison capability)
    - maximising the capacity of video court hearing technology within HMCTS
    - maximising the use of video hearing capacity within police, HMCTS, HMPPS
    - identify other operational tasks that could be undertaken remotely eg criminal court resulting (HMCTS)
  - **Custody Time Limits** - To identify key limits where flexibility will prevent individuals breaching requirements for reasons outside their controls; enable workload peaks to be reduced.
  - **Legal Practitioners** - To bring together views, concerns & issues from legal practitioners and to work through them as well as two-way information sharing to ensure the CJS operates as smoothly as possible.
25. I chaired the Custody Time Limits Silver Group and my fellow DLS chaired the Legal Decision-Making Silver Group. The groups started meeting on/around 23 March 2020; the work of the groups was largely done via email and telephone conferences. After an initial flurry of activity, the work of the groups became more ad hoc. The key value of these groups was to get senior stakeholders from across CJS departments together to make strategic decisions and share information. Over time, the groups naturally changed or spurred new working groups depending upon the priorities at the time.

26. It was within this Silver Group structure that the CPS made decisions which resulted in the publication of the Interim Charging Protocol and Case Review Guidance (for which see below).

***General Public Services Ministerial Implementation Group (GPS-MIG)***

27. The DPP was invited to attend GPSMIG meetings on an ad hoc when the topic was relevant to CPS. The DPP first joined one of these calls on 31 March 2020. The CPS provided headline statistics or flagged operational issues identified from daily internal management calls.

***Covid-19 Operations Committee Meeting (Covid-O)***

28. The CEO was invited to Join the Covid-O meeting on 15 January 2021. This meeting focussed on the Court System (compliance and enforcement). The purpose of the discussion was for Ministers to understand the extent of the backlog in the courts system and agree how cases related to breaches of Covid rules could be expedited. The Agenda included papers from the Home Office and Ministry of Justice. One outcome of that meeting was that the Attorney General agreed to specify further covid-related offences to use the Single Justice Procedure (for which, see below).

***National Economy and Recovery Taskforce***

29. Later in 2021, the CPS were also engaged in the National Economy and Recovery Taskforce (NERT) Public Service (PS) meetings on different topics on occasion. The DPP and/or CEO were involved in/contributed to NERT meetings on CJS backlogs, CJS recovery and RASSO in March 2021.

**Interim Charging Protocol [INQ000084078]**

30. At the beginning of the pandemic, we held regular calls with our CCPs to cascade information and identify issues and pressures across CPS Areas. On 17 March, the Lord Chief Justice announced that all Crown Court cases due to last three days or more, starting before the end of April 2020, would be adjourned and on 23 March 2020 that no new jury trials would start. We discussed the impact of this on a CCP call that same day and it was agreed that a small group of CCPs would meet to look at how we could assist



by way of charging prioritisation. I oversaw this work reporting in to the Legal Decision Making Silver group.

31. It was immediately apparent that the pandemic would prevent cases from progressing through the courts, in the normal way. It was equally apparent that criminal activity would not cease, although some aspects would inevitably reduce. There was particular concern amongst all engaged in criminal justice (police, CPS, HMCTS and judiciary) that forcing everyone to stay at home would pose a significant threat of an increase in domestic abuse. There would also be threats posed by those who wished to take advantage of the crisis, particularly in on-line activity.
32. The CPS could have simply continued to charge cases that were already in the system, waiting to be charged, using the existing agreed timescales. However, that would have contributed to a greater blockage in the court system than had existed previously. With bailed defendants, witnesses, advocates, courts staff, judiciary and jurors all potentially experiencing difficulty in attending court, the potential for delay was immense.
33. We decided that a Protocol ought to be developed to categorise cases as high, medium and low priority (based on a risk/harm approach) for charging decisions to ease the pressures at Court and ensure that high priority cases were able to get to Court quickly and to enable all agencies to effectively deploy resources.
34. The Protocol devised three categories of cases, based on risk to the public and set timescales for directing those cases into court. The rationale for choosing cases in each category is explained in the protocol itself and includes case examples. The choice of cases for each category was based upon the collective knowledge and experience of senior prosecutors and police officers who all had input into the final document. It focused attention on high-risk, high-harm cases and ensured they were prioritised. It was, in our view, a logical and sensible approach to mitigate the risk posed.
35. A Draft Interim Charging Protocol was drafted, and underwent a series of amendments and changes, as it was considered by those in the working group and also following discussions with other agencies, including the NPCC lead on charging and the NPCC lead on Criminal Justice. It was also shared with colleagues from MOJ and HMCTS and discussed at the Silver meeting on 27 March 2020. It was shared with the CJSSC Gold Group and the NPCC Gold Command on 30 March.

36. On 31 March 2020 we published the **Covid 19 Interim Charging Protocol** on the CPS website, it became operational on 1 April. It provided that all 'coronavirus-related' cases would be dealt with by the CPS as 'immediate' Category A cases for the purpose of obtaining a charging decision, whether suspects are to be kept in custody or released on bail. Examples of 'coronavirus-related' cases are provided in the protocol and include assaults on emergency workers as well as coronavirus-related dishonesty and fraud. This ensured those offences with coronavirus-related aggravated features were in the highest category for priority charging decisions, alongside those where the police or other investigators were seeking a charging decision followed by a remand in custody.
37. Ahead of the launch the police developed a power point presentation for dissemination to all Forces to highlight the key changes. The Protocol was available on the CPS website, was sent directly to all CCPs and was sent to all Chief Constables and Criminal Justice leads by the NPCC Charging lead. It was also shared with all members of the Criminal Justice Board on 31 March.

#### **Interim CPS Case Review Guidance [INQ000084077]**

38. As set out above, the Code sets out how prosecutors make charging decisions. It also explains that the CPS has a duty of continuing review. This means that circumstances may change throughout the life of the case which impact on the application of the Code test. One aspect of the public interest test is that prosecutors should consider whether prosecution is a proportionate response
39. Shortly after the Interim Charging Protocol was published, we decided that it was also necessary to have some legal guidance on the application of the Code to draw prosecutor's attention to the type of public interest factors which may be applicable when reviewing cases in light of the impact of the pandemic.
40. In developing this guidance, the CPS consulted with/ sought the views of AGO, NPCC portfolio leads and the College of Policing. We also informed HMCTS, Judicial Office and the CJSSC Silver command. The Guidance was ultimately approved by the DPP.
41. The Interim Case Review Guidance was published on 14 April 2020. It was publicly available on our CPS website. A notification was sent to all prosecutors by email on the day of publication. We also shared directly with key stakeholders and parliamentarians.

42. The Case Review Guidance clarified that when reviewing a case and considering the public interest, prosecutors should note:
- *The crisis is producing an expanding pipeline of cases waiting to be heard.*
  - *Criminal proceedings and case progression are likely to be delayed. Significant delay may impact adversely on victims, witnesses and defendants, in some cases, may reduce the likelihood of a conviction.*
  - *Each case that is introduced into the system, or kept in the system, will contribute to the expanding pipeline and delay.*
43. By applying these factors, prosecutors were encouraged to consider whether there may be other courses which could be taken, such as an out-of-court disposal; and whether it may be appropriate to accept a guilty plea to some, but not all charges, or to a less serious offence.
44. We advised that the proportionality factor must be weighed with all other relevant public interest factors, such as the seriousness of the offence and the circumstances of and the harm caused to the victim, to form an overall assessment of the public interest (in accordance with the Code). The guidance cautioned that: *In the majority of cases, there will be no impact at all, and the public interest will lie with continuing the prosecution.*

### **Covid Act and Regulations**

45. On 18 March, our policy team were informed, via MOJ, that a Coronavirus Bill was due to be introduced to Parliament on 19 March. On 23 March 2020 the first National lockdown began and the CJSSC silver meetings started.
46. On around 24 March, my legal support team (the DLS team) started to engage with the staff officer to the NPCC lead for Charging about the new criminal offences which were due to commence with a view to ensuring we were ready to develop guidance once we had copies of the new laws.

### **Coronavirus Act**

47. The Coronavirus Act came into force on 25 March 2020. Its stated aim was to introduce new laws to protect public health, increase NHS capacity, strengthen social care and support the public to take the right action at the right time.

48. In accordance with the Act's sunset clause at section 89, many of the Act's provisions expired on 25 March 2022. These included the provisions relating to the main criminal offences in the Act. These offences related to:
- Potentially infectious persons being required to undergo screening (section 51 and schedule 21).
  - Secretary of State declarations and directions in relation to prohibitions, requirements and restrictions on events, gatherings and premises (section 52 and schedule 22). It should be noted that these are distinct from subsequent Covid Regulations that placed restrictions on gatherings and businesses.
  - Secretary of State directions in relation to the power to suspend the operation and management of an airport, seaport or an international rail terminal (section 50 and schedule 20).
49. The Act also included a number of provisions relating to Court hearings (e.g. enabling the use of live links for court hearings so parties could attend remotely).

Coronavirus Regulations [see schedule below for URNs].

50. Separate Regulations were created for all four jurisdictions of the United Kingdom. The CPS functions relate to the jurisdictions of England and Wales. The Regulations contain a number of summary-only criminal offences that relate to breaches or contraventions of a large number of restrictions, prohibitions, instructions and requirements imposed by the Coronavirus Regulations. These cover, for example, movement outside the home, gatherings, restrictions on businesses and services, face coverings, hospitality, self-isolation and international travel.
51. The Regulations were passed as emergency legislation under powers conferred by the Public Health (Control of Disease) Act 1984.

**The Coronavirus Regulations – England**

52. The following is a summary of the various types of Coronavirus Regulations that applied to England and contained criminal offences. It sets out the date of introduction and revocation, the number of Amendment Regulations, and the main requirements or

prohibitions, breach of which could amount to a criminal offence. Where reference is made to the revocation of Regulations, this will usually relate to the majority but not necessarily all of the restrictions, as particular restrictions were sometimes revoked on different dates.

## **Lockdown laws - Regulations containing restrictions on movement, gatherings and businesses**

- **The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020**

53. The first set of Regulations came into force on 26 March 2020, imposing the first national lockdown. They were amended on 5 occasions and revoked on 4 July 2020.
54. The main restrictions that were imposed formed the template for all subsequent lockdown Regulations, although they became far more complex. The restrictions related to:
  - *Restriction on movement*
  - *Restriction on gathering*
  - *Requirement to close businesses and premises*
  - *Restrictions on certain business activities*
55. It should be noted that some of the restrictions (e.g. those relating to business activities) were enforced and prosecuted by Local Authorities, not the CPS.
56. The Regulations contained enforcement powers for the police, such as directing a person to return to the place where they live and directing a gathering to disperse. The Regulations created new summary offences, where a person: contravened the requirements of stated Regulations without a reasonable excuse; obstructed a person carrying out a function under the Regulations without a reasonable excuse; or contravened a prohibition notice or direction or reasonable instruction given to a person without reasonable excuse. The offences are punishable by a fine. The police were given the power to arrest in relation to these offences.
57. An authorised person, such as a constable, was given power to issue a fixed penalty notice (FPN) if they reasonably believed that an offence had been committed by an offender aged 18 or over. A FPN provides an offender with the opportunity to discharge



any liability for the offence by paying a fine. If an offender accepts a FPN but does not comply with its terms, then after 28 days criminal proceedings can be instituted by the police. An individual does not have to accept a FPN and if they do not do so the police can issue criminal proceedings for the offence instead. It should be noted that FPNs are not automatic. The police can take the decision that the offence is so serious that they can charge straightaway, for example where there have been multiple offences.

58. The Regulations provided that the CPS may bring proceedings for an offence under the Regulations.

- **The Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020**

59. These Regulations came into force on 4 July 2020 and were mostly revoked on 14 October 2020. They were amended on 20 occasions.

60. The restrictions that were imposed were: a requirement to close businesses and premises; restrictions on gatherings, initially in relation to more than 30 persons in specific places, such as a private dwelling and certain indoor places; and a Secretary of State power to issue a direction to restrict access to a specific public outdoor space.

61. The restrictions on gatherings were by now quite complex and subject to regular amendment, such as introducing restrictions on organising or facilitating specific gatherings, and “the rule of 6”, whereby indoor and outdoor gatherings of up to 6 persons was allowed, and the prohibition in excess of that number subject to exceptions. Amendments also introduced the concept of participating in specific types of gatherings (relating to businesses, charities etc) as a member of a “qualifying group”, and the related concept of “mingling”, which was prohibited in relation to persons who were not a member of the same qualifying group.

- **The Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020**

62. These Regulations came into force from 18 July 2020, were amended on 20 occasions, and were revoked on 24 February 2022.

63. As these relate to Local Authority (LA) powers regarding premises, events and outdoor places, the CPS did not produce guidance for these Regulations.

- **The Health Protection (Coronavirus, Local COVID-19 Alert Level) (Medium) (England) Restrictions Regulations 2020 (Tier 1 Regulations)**
- **The Health Protection (Coronavirus, Local COVID-19 Alert Level) (High) (England) Regulations 2020 (Tier 2 Regulations)**
- **The Health Protection (Coronavirus, Local COVID-19 Alert Level) (Very High) (England) Regulations 2020 (Tier 3 Regulations)**

64. The “3 Tier” Regulations came into force on 14 October 2020, replacing the No.2 Regulations. They were amended on 3, 7 and 6 occasions respectively (Tiers 1, 2 and 3). Most provisions in the Regulations were revoked on 5 November.

65. They formed a new 3 Tier system, whereby every area of England was subject to restrictions on gatherings and businesses. The restrictions depended on which Tier that Area was placed in. Every Area was by default a Tier 1 Area (where the local COVID-19 alert level was assessed as being medium), unless they were excluded from the Tier 1 Area, by being identified as a Tier 2 Area (high alert level) or a Tier 3 Area (very high alert level).

66. The Tier 1 Regulations imposed restrictions on gatherings and businesses in the Tier 1 Area. The Tier 2 and Tier 3 Regulations imposed restrictions on gatherings and businesses in the relevant Tier Area and on gatherings elsewhere by persons living in the relevant Tier Area.

67. The system of tiers added a further layer of complexity for the police and prosecutors, as they needed to determine which tier a place was in at a particular time, and therefore which restrictions applied, before they could assess whether an offence may have been committed.

- **The Health Protection (Coronavirus, Restrictions) (England) (No. 4) Regulations 2020**

68. These Regulations came into force on 5 November 2020, imposing the second national lockdown. They were amended twice before being revoked on 2 December 2020.

69. Broadly, although complex, the Regulations imposed the usual restrictions on leaving home and indoor and outdoor gatherings; and required a number of businesses to close, whilst imposing restrictions on other businesses.

- **The Health Protection (Coronavirus, Restrictions) (All Tiers) (England) Regulations 2020**

70. Following the second national lockdown, a modified tier system ("All Tiers") was introduced. The All Tiers Regulations came into force on 2 December 2020. They were amended on 10 occasions and were revoked on 29 March 2021.
71. Every area of England was subject to restrictions, depending on which Tier that area was placed in. Initially, there were 3 Tiers but on 20 December 2020 a fourth Tier with more severe restrictions was introduced. Measures to allow people to socialise over Christmas were introduced, although these did not apply to Tier 4. On 6 January 2021 all of England was put into Tier 4, to enforce the third and final national lockdown.

- **The Health Protection (Coronavirus, Restrictions) (Steps) (England) Regulations 2021**

72. The Steps Regulations came into force on 29 March 2021, at the end of the third national lockdown in England. They were amended on 3 occasions and revoked on 18 July 2021.
73. The Regulations provided a framework for the easing of the lockdown restrictions, via the three Step Areas; Step 1 being the most severe restrictions, and Step 3 the least severe. The intention was to keep all locations in England within the same Step and set of restrictions, starting with Step 1, then moving all locations at the same time from Step 1 to Step 2, and then to Step 3. Police and prosecutors needed to ensure that charging decisions were based on the Regulations in force in a particular Step area at the time the alleged breach was committed.
74. The Steps Regulations imposed restrictions on gatherings and businesses in England, and also a prohibition on leaving the UK without a reasonable excuse.

#### **Local lockdown Regulations**



75. Between 4 July 2020 and 14 October 2020, the Government imposed a number of restrictions for certain local areas, via standalone Regulations. The rules differed in each area and were subject to a number of amendments. The local lockdown Regulations were revoked on 14 October 2020, to be replaced by the 3 Tier system.
76. The CPS did not produce national guidance in relation to these restrictions, as they applied only to specified protected areas.

### **International Travel Regulations**

- **The Health Protection (Coronavirus, International Travel) (England) Regulations 2020**

77. These Regulations came into force on 8 June 2020, were amended on 57 occasions and were revoked on 17 May 2021.
78. When introduced, the main requirements were: on arrival in England from outside “the common travel area” (the UK, the Channel Islands, the Isle of Man, and the Republic of Ireland), to provide passenger information on a Passenger Locator Form; and to self-isolate (usually at home) for 14 days or until departure from England. The schedules to the Regulations contained lists of persons exempt from the requirements.
79. Amendments to the Regulations made them increasingly complex, introducing for instance: a list of exempt countries and territories in relation to the requirement to self-isolate; reduction of the self-isolation period to 10 days; a requirement to possess notification of a negative test result; a requirement that individuals travelling from specified countries have a managed self-isolation package; and a requirement that individuals arriving in England in certain circumstances book and undertake mandatory tests. By the time the Regulations were revoked they had become highly complex, requiring a large amount of cross-referencing between the various regulations and schedules, including numerous exemptions, in order to ascertain the exact requirements on a particular person arriving in England on a specified date.

- **The Health Protection (Coronavirus, International Travel and Operator Liability) (England) Regulations 2021**

80. These Regulations came into force on 17 May 2021, were amended on 43 occasions and were revoked on 18 March 2022. They replaced the 2020 International Travel Regulations.
81. The 2021 Regulations imposed requirements on certain categories of person to provide information upon arrival in England, to take coronavirus tests before and after arrival, and to self-isolate. They also imposed obligations on operators to ensure that passengers received information and complied with the requirements.
82. The structure of these Regulations were changed a number of times by the various Amendments, which included the introduction of new Parts and Regulations, moving some of the Parts and Regulations to a different place within the Regulations, and re-titling some of the Parts and Regulations. The Regulations also introduced, and sometimes later omitted, different categories of traveller, such as “eligible category 2 arrival” and “eligible traveller”, and changed the requirements imposed on such travellers, in line with the Government’s response to the changing nature of the pandemic.

### **Self-isolation Regulations**

- **The Health Protection (Coronavirus, Restrictions) (Self-Isolation) (England) Regulations 2020**

83. The Regulations came into force on 28 September 2020, were amended on 16 occasions and were revoked on 24 February 2022.
84. The Regulations:
- Imposed self-isolation requirements in relation to people who had tested positive for coronavirus and their contacts.
  - Prohibited an employer from allowing a worker who was required to self-isolate from attending any place for any purpose connected with their employment. It also required a self-isolating worker to inform their employer of the requirement on them to self-isolate.
85. Amendments made to these Regulations included: numerous changes to the period of self-isolation and how it is calculated; creation of new exceptions to the requirement to

self-isolate; relaxation of the requirement to self-isolate, by exempting certain contacts, such as children or vaccinated persons (this exemption was reversed in respect of the Omicron variant on 30 November 2021, requiring such contacts to self-isolate, but then re-applied in respect of the Omicron variant just 2 weeks later, on 14 December 2021).

86. Assessing whether a person had complied with the Regulations was not always straightforward. For example, calculating the dates on which a contact was required to self-isolate could be difficult, due to the definitions of the start and end date of the period of self-isolation.

### **Face coverings Regulations**

- **The Health Protection (Coronavirus, Wearing of Face Coverings on Public Transport) (England) Regulations 2020**

87. The Regulations came into force on 15 June 2020, were amended on 5 occasions and were revoked on 18 July 2021.
88. They required members of the public to wear face coverings whilst using public transport (such as buses, trains, aircraft, the London Underground, water taxis and trams), unless they had a reasonable excuse not to do so. A number of persons were exempt from the requirement, including children under the age of 11, employees of the relevant transport service, police and emergency responders. A non-exhaustive list of reasonable excuses was provided in the Regulations, such as any physical or mental illness or impairment, or disability that prevented a person from complying, the need to eat or drink, and to take medication.

- **The Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) Regulations 2020**

89. The Regulations came into force on 24 July 2020, were amended on 8 occasions and were revoked on 18 July 2021.
90. They required members of the public to wear face coverings whilst inside a relevant place, unless they had a reasonable excuse not to do so. A number of persons were exempt from the requirement and a non-exhaustive list of reasonable excuses was provided in the Regulations – these provisions were similar to those in the Regulations

on wearing face coverings on public transport. Schedule 1 contained a list of relevant places where face coverings must be worn. This included a shop (but not pubs, bars and restaurants), a transport hub, banks and post offices. Schedule 2 contained a list of places that were exempt from the definition of “shop”, where face coverings did not need to be worn, such as libraries, doctors’ surgeries, dentists’, theatres and cinema. The definition of a “relevant place” was amended on a number of occasions.

- **The Health Protection (Coronavirus, Wearing of Face Coverings) (England) Regulations 2021**

91. These Regulations came into force on 30 November 2021, were amended on 2 occasions and were revoked on 27 January 2022.
92. The Regulations required members of the public to wear face coverings whilst inside a relevant place specified in the Regulations, or whilst using public transport (such as buses, trains, the London Underground, trams, aircraft and water taxis), unless they had a reasonable excuse not to do so. They also required businesses in places where wearing a face covering is required to display notices giving information about that requirement, and prohibited persons carrying on business in specified locations from preventing anyone from wearing a face covering, except in limited circumstances. As with the 2020 Regulations, these Regulations contained a list of persons exempted from the requirements, and a list of non-exhaustive reasonable excuses.

## **Hospitality Regulations**

- **The Health Protection (Coronavirus, Restrictions) (Obligations of Hospitality Undertakings) (England) Regulations 2020**

93. These Regulations came into force on 18 September 2020, were amended on 10 occasions and were revoked on 18 July 2021.
94. They related to pubs, cafés, restaurants and other relevant businesses and required measures to be taken to restrict group bookings and admissions to 6 persons, subject to exemptions, to prevent mingling of persons in qualifying group, and to maintain an appropriate distance between tables occupied by different qualifying groups.

- **The Health Protection (Coronavirus, Restrictions) (Entry to Venues and Events) (England) Regulations 2021**

95. These Regulations mostly came into force on 15 December 2021, were amended on 2 occasions and were revoked on 27 April 2022.
96. They imposed obligations on certain events organisers and managers of certain venues to take reasonable measures to ensure that they did not admit any person (subject to exceptions such as persons under 18 years of age) to such events or venues, unless the person concerned had been fully vaccinated or had tested negative for coronavirus within the previous 48 hours, or met another listed criteria. A number of other related obligations were imposed on responsible persons. Local authorities were given powers to enforce these obligations.

#### **CPS actions in respect of legislative developments**

97. The CPS does not formulate Government policy, nor is it responsible for legislation. However, it is common practice, when new criminal offences are created, for the CPS to be consulted by the relevant Government department and to advise on how potential offences and legislation may work best in practice. Legislation will often be developed over many months or years, including its passage through Parliament, allowing the CPS adequate time to provide meaningful input.
98. The imminent threat posed by the pandemic necessitated emergency legislation at short notice. In these circumstances, it was not possible for the CPS to have the same level of input into the legislation before it was laid before Parliament. However, despite the speed with which the various Regulations were introduced, the CPS ensured that it worked as closely as possible with Government departments and the police to aid our understanding of the policy intent behind the Regulations and to raise any practical difficulties we encountered in enforcing them.
99. Prior to the first Health Protection Regulations coming into force in March 2020, the CPS viewed and commented on a number of draft Regulations, helping to clarify the text and identifying any perceived problems. Since this text served as the basis for a number of subsequent lockdown Regulations, CPS involvement ensured that we were able to readily understand most of the provisions, to assist the police by way of advice, and to enforce them through prosecutions.



100. The CPS continued to support the police and government departments by providing feedback on new draft Regulations and Amendments via a legal working group set up under the NPCC Operation Talla response (see below).
101. We provided ongoing feedback on any statutory provisions that we considered could be clarified or may have been difficult to enforce in practice. At times, such provisions were amended in subsequent Regulations.
102. The CPS also provided feedback on police operational guidance on enforcing the Regulations, which aimed to ensure a consistent interpretation and enforcement of the Regulations by the CPS and the police.

### **CPS Legal Guidance - England**

103. As a result of this close working relationship with the police and other Government departments, the CPS was able to produce and publish guidance on the Coronavirus Act and Regulations at the same time, or shortly after, any new legislation was brought into force. CPS prosecutors, the police and the public therefore had the benefit of this guidance from a very early stage, which was necessary given the frequency with which the Regulations were amended. However, the scale of this task should not be underestimated.
104. The legal guidance published by the CPS relates to those Coronavirus Regulations that applied in England and contained criminal offences. These can be found on the prosecution guidance page of the CPS website. [See schedule below]
105. At the start of the pandemic, we could not have foreseen the number of amendments that would be made to the Regulations. Our initial guidance provided detailed summaries of the new laws, to assist prosecutors to understand them. However, the complexity and frequency of amendments to the Regulations caused difficulties in drafting and revising the guidance in such a way as to make it clear and accessible to prosecutors, and to ensure it was up to date. A good example of this is the number of Amendment Regulations and resulting complexity of the International Travel Regulations: the 2020 Regulations were amended 57 times and the 2021 Regulations were amended 43 times. In January 2021 it was therefore decided to revise all of the Coronavirus Regulations guidance, to remove much of the detail, providing prosecutors with a clearer, high-level summary of the main provisions in the Regulations, incorporating only key amendments.

Prosecutors were reminded that they would need to refer to the timeline on the legislation website to determine which provisions were in force at the time of an alleged breach.

106. The speed with which legislation was developed and implemented meant there was little time to properly analyse the drafting of the legislation or to ensure our prosecutors were properly equipped to review cases charged under these new offences. This meant prosecutors were learning as they went along, and our guidance was constantly evolving to reflect our learning. Over time, the sheer volume of different iterations of the Regulations inevitably meant cases were charged under the wrong version of the Regulations (i.e. those which had been revoked and replaced by new Regulations) and we had to take steps to ensure additional oversight of these cases (see below).

### **The Coronavirus Regulations – Wales**

107. CPS Cymru–Wales produced guidance on the Welsh Coronavirus Regulations, accessible to all CPS Cymru–Wales prosecutors.
108. The Wales Covid Regulations were issued by the Wales Government using devolved powers, principally under the Public Health (Control of Disease) Act 1984. In total some 216 Statutory Instruments were passed, covering a wide variety of topics including education, health service, local authority meetings, access to footpaths, payments to farmers, police and crime commissioner elections & meetings, etc.
109. The Welsh government developed Covid legislation independently to that introduced by the government in England. The Wales Regulations initially introduced in March 2020 contained very similar restrictions to those introduced in England during the first ‘lockdown’ period, albeit the Welsh government decided not to ‘mirror’ the English guidance. However, very quickly the Welsh government took a different view of the nature and extent of regulations required. Consequently, over time there were often marked differences between the nature and extent of restrictions in force in Wales as compared to England.
110. Following 2 sets of precursor Regulations published on 18 and 21 March 2020, the first set of Principal Regulations (The Health Protection (Coronavirus, Restrictions) (Wales) Regulations 2020) came into effect on 26 March 2020. There were 7 sets of Amendment Regulations.

111. The first set of Principal Regulations, which reflected the first 'lockdown' on 26 March 2020, provided for individuals not to leave their place of residence without reasonable excuse, or for 2 or more people to participate in a gathering, subject to exceptions. The definition of 'reasonable excuse' was clarified over time, e.g. to allow for exercise.
112. Breach of the Regulations constituted a summary only offence for which an FPN could be issued (the amount of fine varied over time depending on the number of FPNs issued to an individual). Upon a conviction, the maximum sentence a court could impose was a financial penalty.
113. Over time, the Regulations moved from full lockdown to provide for local lockdowns, and tiered levels of restrictions, which could apply in different geographical areas. A 'firebreak' lockdown was imposed from 23 October 2020, and the restrictions were then progressively relaxed throughout 2021-2022.
114. The behaviour criminalised was generally in respect of requirements imposed under the Health Protection Regulations.
115. The CPS also produced legal guidance for prosecutors covering the Wales Regulations, though these were not published externally, rather they were shared within CPS Wales and with our charging team at CPS Direct. The legal guidance focused on the Wales Health Protection Regulations. However, legal guidance was also introduced to signpost requirements set out in the Wales International Travel Regulations.
116. The guidance documents contained a chronological list of the Regulations, their implementation dates, and hyperlinks to the Regulations. Where possible, short commentary was also included to signpost the main changes when a new set of Regulations was issued. This was updated as the Regulations were published.
117. Between 2020-2022, 40 versions of the Wales Health Protection Regulations legal guidance were published, and 20 versions of the Wales International Travel Regulations guidance to reflect the continued amendments and updates to the legislation.
118. The prosecutor guidance for Wales was published internally via the Cymru-Wales All-Staff MS Teams page, to enable all staff in Wales to access the guidance. From September 2020 it was also available on the National legal guidance page, but only



available internally. It was not published externally because it was not quality assured to publication standard.

### **Engagement with Welsh Government**

119. Early in the pandemic, the Welsh Government introduced a 'Warning and Information Group' chaired by the First Minister's communications manager and attended by a representative from the CPS. This primarily focussed on intelligence sharing from the Welsh Government and the police about upcoming changes and was an informal meeting.
120. The Criminal Justice Sub-Group for Covid 19 was set up on 25 March 2020, chaired by the Head of Justice Services for South Wales Police and reporting into the Wales Criminal Justice Board. It was a weekly pan-Wales meeting attended by Welsh police force leads, CPS, HMCTS, probation service and others. This was primarily an information sharing meeting where agencies provided updates as to the impact of the pandemic on their services in order to keep the CJS moving. For example, the police would provide updates on the number of fixed penalty notices issued so that the likely impact upon the courts could be considered.

### **Engagement on the development of the England Regulations**

121. Operation Talla was the name given to the national policing response to the Covid pandemic. It had a number of strands, one of which was criminal justice.
122. On around 24 March 2020 the Home Office shared an initial draft of the first Regulations with Op Talla. This was shared via emails with various parties as advanced notice and over time an informal network developed. This included representatives from the CPS DLS team, the Home Office Legislation Lead, the National Police Chiefs' Council ('NPCC') (which included representatives from the NPCC Charging portfolio, Operation Talla and the National Police Coordination Centre ('NPoCC')), the College of Policing, and the Director of Legal Services for the Metropolitan Police. The group would consider the draft Regulations with a view to developing consistent operational guidance for policing.
123. The Home Office shared proposed amendments to the Regulations with the Op Talla Network for early feedback. The process was conducted almost entirely by email, with

Home Office leads circulating the proposed drafts to the points of contact, including the CPS, and providing a short time for feedback (often within hours). The comments of the CPS were directed towards any amendments that might impact on prosecutions, or to clarify the policy intent behind certain provisions, but there were no substantive issues raised on the contents.

124. One of the early topics of discussion was around how the measures would be enforced and how to mitigate the risk of regional variation. The police proposed a four-step escalation principle; Engage, Explain, Encourage, Enforce (which became known as 'the 4 E's'). This approach ensured that enforcement of the powers in the Regulations were focused on punishing the most egregious breaches of the Regulations, and encouraged the police to make use of 'soft' powers (e.g. to ask people why they are out and direct them home) to create a heightened level of deterrence, as opposed to seeking immediate enforcement. This approach was reflected in the operational guidance and briefing to Chief Constables that was sent by the NPCC Charging Portfolio on 25 March
125. The CPS subsequently mirrored this in our published guidance on the Regulations, making clear that the issuing of criminal proceedings are likely to have been a matter of last resort. (eg see Charging Practice section in INQ000084003)
126. This process of sharing early drafts of Regulations for police and prosecutor feedback continued intermittently throughout the pandemic period.
127. Following the first draft of the Regulations, Operation Talla also set up a Police Powers Working Group to respond to questions posed by Forces. This group consisted of representatives from CPS, force solicitors, the Met DLS and the College of Policing. There were no formal terms of reference for the group, but it was engaged in responding to questions on police powers regarding the new legislation. As part of this group, the CPS provided feedback on drafts of operational guidance prepared by the College of Policing under the Coronavirus Act and the Regulations. This feedback was largely confined to checking the guidance was legally accurate.
128. Through this process the leads in each agency became known to each other and the sharing of information and provision of feedback generally occurred informally as and when issues arose, or new Regulations or Amendments were proposed.
129. Early on an issue emerged around differences between the advice issued by the government in the media and in the televised daily briefings as to the restrictions on

individuals, and what was actually prohibited by the Regulations. This was causing some confusion and was evident from the lists of questions which were being escalated to the Police Powers Working Group. For example, Regulation 6 of the Regulations (S.I. 2020/350) provided that 'no person may leave the place where they live without a reasonable excuse' and it was evident that there was particular confusion as to what may amount to a 'reasonable excuse' for these purposes.

130. On 3 April 2020, the group were provided with a document drafted by South Yorkshire Police and Humberside Police legal services which set out scenarios by way of guidance to frontline officers as to what may amount to a reasonable excuse. The CPS adapted that document and produced a quick reference guide table to provide internal guidance for CPS prosecutors which set out that which was government guidance and that which was capable of amounting to a breach. The College of Policing and NPCC Charging Portfolio took the view that this would also be a helpful guide for forces and included the table in their guidance document '*What constitutes a reasonable excuse to leave the place where you live*' that was published by the College of Policing and disseminated to forces on 10 April 2020 (**Ex GM/1 – INQ000101253**).
131. This process continued on an ad hoc basis as new Regulations were developed and new Guidance was produced by the NPCC, College of Policing and CPS.
132. The CPS also worked with the Ministry of Justice and the Police National Legal Database (PNLD) to create new National Standard Offence Wordings, for charging purposes, for new offences under the Coronavirus Regulations. These were placed on the PLND database for access by the police, CPS and HM Courts and Tribunal Service, to provide accurate and consistent wording of charges in a complex area of law.

### **Enforcement process**

133. Breaches of the Coronavirus Regulations could be dealt with either by way of a fixed penalty notice (FPN) or the prosecution of the offence. If an FPN was issued and not paid within the stipulated time period – 28 days – a prosecution may follow.
134. ACRO, the national body dealing with criminal records, oversaw the FPN collection process for Forces but they were not responsible for charging cases if the FPN was contested or not paid. This required ACRO to return information to Forces about unpaid FPNs so that they could then issue proceedings against the suspects. On around 22

April, the NPCC Charging portfolio became aware of the large volume of unpaid FPNs which would be returned back to Forces to institute proceedings. This led to discussions about how these cases would be managed. The volume of potential prosecutions that could follow in consequence presented a significant challenge for the CPS and for HMCTS.

135. The first individuals who failed to pay a Fixed Penalty Notice became liable for prosecution on 22 May 2020. Informal telephone meetings were set up by the NPCC Charging portfolio to discuss these and related issues. In due course, a proposal emerged around utilising the Single Justice Procedure to prosecute these cases.
136. The Single Justice Procedure (SJP) was introduced in April 2015 as a more efficient and streamlined method of handling the large volume of low-level offending processed by magistrates' courts. The procedure is outlined in section 16A of the Magistrates' Court Act 1980. It applies solely to summary only, non-imprisonable offences. A defendant must be 18 years or over when charged. SJP allows suspects to plead guilty by post and a single justice will determine the level of fine on the papers without a traditional court hearing. The CPS only become involved in the SJP if and when a defendant pleads not guilty, at which point the case will be passed to the CPS to prosecute.
137. On 7 May 2020, a joint request was made to the Attorney General (AG) by the NPCC Charging portfolio, the CPS and HMCTS to specify the Covid Regulations to allow for the SJP to be utilised (**Ex GM/2 – INQ000101254**). Offences dealt with through the SJP process would alleviate court capacity pressures and allow the CPS and HMCTS to focus on higher harm case work. If the SJP had not been able to be utilised for these offences they would have been listed in normal court lists, on which there was unprecedented demand, and would mean individuals needing to physically attend court buildings. This request was acceded to and the statutory instrument laid before Parliament on 2 June.
138. Initially, only offences under two sets of Coronavirus Regulations were specified: these were the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 and the Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020, which came into force on 26 March 2020 and were revoked on 4 July 2020 and 11 July 2020 respectively.

139. As new Regulations were developed, the earlier specification by the Attorney General did not cover those new offences. As a result, on 23 July 2020 the Attorney General was asked by the CPS, HMCTS and the NPCC to specify offences under the new Regulations (**Ex GM/3 - INQ000101255**). However, this was not acceded to at the time as the Attorney was not persuaded that the case for further Order was made out on the evidence provided. As such, the CPS would retain conduct of the cases not eligible for SJP and they would be listed in Court in the usual way.
140. In early January 2021, there was a meeting of Covid-O on Compliance and Enforcement (as above). The purpose was to understand the extent of the backlog in the court system and agree how cases related to breaches of Covid rules could be expedited. Shortly thereafter, the AG confirmed that all subsequent Covid Regulations would be specified so that they could utilise SJP.
141. Subsequently, on 8 February 2021, further offences were specified, under 25 sets of Regulations, so that the SJP could be used for all existing Coronavirus Regulations offences.
142. This meant that, in general, prosecution for breaches following unpaid FPNs were commenced using the SJP route. Where suspects declined to use the SJP or indicated a not-guilty plea, the case was then passed to the CPS to prosecute in the usual way.
143. Offences under the Coronavirus Act 2020 were not specified and were therefore subject to CPS prosecution (after police charge), regardless of plea.

### **Prosecutions Review**

144. When a case passes to the CPS to prosecute, a CPS prosecutor will review the evidence to determine whether there is sufficient evidence of an offence and whether the alleged offending merits a prosecution and, if so, whether the correct charge has been applied to the offending.
145. In early April 2020, following media reporting of cases which were incorrectly charged and convicted under the Act and/or Regulation we conducted an internal dip-sampling exercise on finalised cases. As a result, on 14 April 2020, we decided to launch a



wholesale review of all finalised cases<sup>1</sup> charged under the Coronavirus Act 2020 and the Health Protection (Coronavirus Restrictions) Regulations. This Review was conducted by our Compliance & Assurance Team (CAT) in the Operations Directorate. It aimed to address the public, ministerial and media concerns regarding the risk of miscarriages of justice occurring due to the confusion caused by the speed of implementation of the Act and the Regulations.

146. On a weekly basis from April 2020 until March 2022, CAT lawyers were provided with a list of all finalised cases charged under the Regulations or the Act. These cases were extracted from the CPS Management Information System (MIS). The lawyers manually reviewed every case to ensure the correct offences had been charged and prosecuted.
147. Where an error was identified in a case where the defendant had pleaded guilty or was found guilty, the case was referred back to the local CPS Area to take remedial action. This was to ensure the case was re-opened and re-listed in court so that the error can be corrected (either by way of amending the charge or withdrawing the charge entirely).
148. The CPS published the results of these monthly reviews on its website every quarter and shared the information with the NPCC Charging lead.
149. Errors included:
  - Offending in England charged under Welsh Regulations (or vice versa)
  - Evidential issues, such as the charging of homeless people being outside without a reasonable excuse
  - Offences charged under s51/sch21 of the Coronavirus Act where there was no evidence that the defendant was potentially infectious (every case charged under the Act was charged in error)
  - Offences prosecuted under the wrong iteration of the Regulations (e.g. using repealed Regulations).
150. When the CPS began its monthly review of charges, a strong onus was placed on the police to put supervising officers in charge of decision-making at police stations and elsewhere, as any errors in the charging of Coronavirus offences under the Regulations or the Act are made initially at this point in the prosecution process.

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<sup>1</sup> Finalised cases are cases where a prosecution has either been stopped or concluded with the defendant being found guilty, or where a guilty plea is entered and accepted.

151.

152. To mitigate the risk of incorrectly charged cases reaching court, the CPS put in place an internal safeguard: a 'triage check' which was carried out by a supervising lawyer (known as the Covid SPOC) on all charged cases before the first court appearance. This helped to ensure that any errors were identified immediately and amended. Using a supervising lawyer for this role allowed them to build up an understanding of the Regulations and common errors so that they can be easily identified and rectified.
153. Our data<sup>2</sup> indicates that the CPS prosecuted 2607 cases under the various Regulations and 311 cases under the Act. It should be noted that this does not include cases which were finalised using the SJP.
154. Of the 311 cases under the Act, every case was charged incorrectly. This was usually because the wrong legislation had been used; in many cases the conduct would have been an offence under one of the Regulations. Most of these errors were identified at Court and the offence was withdrawn, however, 53 cases were convicted in error and the case had to be returned back to the CPS Area to reopen and withdraw or amend.
155. In respect of the Regulations, 532 of 2607 cases were charged incorrectly. 425 were identified at Court and were withdrawn, 76 were identified upon review and had to be returned to Area. 12 resulted in not guilty pleas and 19 were miscellaneous, for example, the case was administratively finalised or a warrant was issued.
156. Our checks indicate the majority of the covid offences were charged by the Police, as per the Directors Guidance on Charging (see above).

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<sup>2</sup> CPS management information is derived from the CPS case management system, and as with any large-scale recording system, data are subject to possible errors in entry and processing. The figures were provisional and subject to change as more information is recorded and quality assured by the CPS. This means that cumulative figures may not always match the sum of historic monthly published figures.

Our data covers the number of offences rather than individual defendants. Official criminal justice outcome statistics are kept by the Ministry of Justice.

#### England & Wales combined total

Number of cases finalised (April 2020 to March 2022)	Number of cases charged by		Number of cases incorrectly charged by
Health Protection (Coronavirus Restrictions) Regulations	Police	2,514	520
	CPS	93	12
	Total	2,607	532
Coronavirus Act 2020	Police	298	298
	CPS	13	13
	Total	311	311

#### All other CPS Areas

Number of cases finalised (April 2020 to March 2022)	Number of cases charged by		Number of cases incorrectly charged by
Health Protection (Coronavirus Restrictions) Regulations	Police	2,283	469
	CPS	89	12
	Total	2,372	481
Coronavirus Act 2020	Police	272	272
	CPS	12	12
	Total	284	284

#### CPS Cymru Wales

Number of cases finalised (April 2020 to March 2022)	Number of cases charged by		Number of cases incorrectly charged by
Health Protection (Coronavirus Restrictions) Regulations	Police	231	51
	CPS	4	0
	Total	235	51
Coronavirus Act 2020	Police	26	26
	CPS	1	1
	Total	27	27

157. Inevitably this was a resource intensive review process but given the volume of errors we were identifying – reflective of the complex legal landscape which emerged due to the volume of legislative amendments which occurred during the pandemic – it was a necessary action to maintain confidence in the criminal justice system.



## **Finance**

158. CPS expenditure is financed from centrally agreed multi-year budgets, administered by the Treasury, which are set through the Spending Review process. Each year the CPS seeks legal authority to consume resources and spend cash for the financial year ahead through the Estimates process. The CPS has discretion as to how it distributes its budget allocations, subject to any restrictions that Treasury may place upon it. The CPS is expected to operate within its funding allocation for each financial year over a spending review period.
159. The CPS costing methodology is based on each stage of the prosecution process (e.g. charging, case preparation, trial) and court type (e.g. magistrates/Crown Court), not the specific offences charged. The principal driver of the cost estimation process is the amount of time it takes our staff to deliver at each stage of our operating process. All cases (regardless of the offence category) follow the same basic processes through the court system.
160. The CPS is a demand-led organisation and during the pandemic the type of offences being committed changed, given the restrictions which were being imposed. Some crime types increased whilst others reduced. The CPS' financial model meant we did not have to bid for additional resource to manage the changing nature of crime. It is therefore not possible to identify the cost of prosecuting during the pandemic.

## **Statement of Truth**

I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief of its truth.

**Signed:**

**PD**

Dated: 12.05.23

**Annex: Schedule of legal guidance**

English Legal Guidance	
OPS-LG001 Coronavirus Self-Isolation Regulations - version 1 29.09.2020.pdf	INQ0000 84003
OPS-LG002 Coronavirus Self-Isolation Regulations - version 2 17.02.2021.pdf	INQ0000 84004
OPS-LG003 Administrative Update to 12 Chapters of Covid Legal Guidance on 22 January 2021.pdf	INQ0000 84005
OPS-LG004 Coronavirus Self-Isolation Regulations - version 3 05.02.2021.pdf	INQ0000 84006
OPS-LG005 Coronavirus Self-Isolation Regulations - version 4 30.03.2021.pdf	INQ0000 84007
OPS-LG006 Coronavirus Self-Isolation Regulations - version 5 07.09.2021.pdf	INQ0000 84008
OPS-LG007 Coronavirus Self-Isolation Regulations - version 6 30.11.2021.pdf	INQ0000 84009
OPS-LG008 Coronavirus Self-Isolation Regulations - version 7 22.06.2022.pdf	INQ0000 84010
OPS-LG009 Coronavirus Self-Isolation Regulations - version 8 25.08.2022.pdf	INQ0000 84011
OPS-LG010 Coronavirus Act 2020 - version 1 26.03.2020.pdf	INQ0000 84012
OPS-LG011 Coronavirus Act 2020 - version 2 08.04.2021.pdf	INQ0000 84013
OPS-LG012 Coronavirus Act 2020 - version 3 13.10.2021.pdf	INQ0000 84014
OPS-LG013 Coronavirus Act 2020 - version 4 18.07.2022.pdf	INQ0000 84015
OPS-LG014 Local Coronavirus Regulations Tier 1 - version 1 16.10.2020.pdf	INQ0000 84016
OPS-LG015 Local Coronavirus Regulations Tier 1 - version 2 06.11.2020.pdf	INQ0000 84017
OPS-LG016 Administrative Update to 11 Chapters of Covid Legal Guidance on 25 November 2020.pdf	INQ0000 84018
OPS-LG017 Local Coronavirus Regulations Tier 1 - version 3 22.06.2022.pdf	INQ0000 84019
OPS-LG018 Local Coronavirus Regulations Tier 2 - version 1 16.10.2020.pdf	INQ0000 84020
OPS-LG019 Local Coronavirus Regulations Tier 2 - version 2 06.11.2020.pdf	INQ0000 84021
OPS-LG020 Local Coronavirus Regulations Tier 2 - version 3 22.06.2022.pdf	INQ0000 84022
OPS-LG021 Local Coronavirus Regulations Tier 3 - version 1 16.10.2020.pdf	INQ0000 84023
OPS-LG022 Local Coronavirus Regulations Tier 3 - version 2 06.11.2020.pdf	INQ0000 84024
OPS-LG023 Local Coronavirus Regulations Tier 3 - version 3 22.06.2022.pdf	INQ0000 84025
OPS-LG024 Health Protection (Coronavirus, Restrictions) (Steps) (England) Regulations 2021 - version 1 29.03.2021.pdf	INQ0000 84026
OPS-LG025 Health Protection (Coronavirus, Restrictions) (Steps) (England) Regulations 2021 - version 2 12.04.2021.pdf	INQ0000 84027
OPS-LG026 Health Protection (Coronavirus, Restrictions) (Steps) (England) Regulations 2021 - version 3 17.05.2021.pdf	INQ0000 84028
OPS-LG027 Health Protection (Coronavirus, Restrictions) (Steps) (England) Regulations 2021 - version 4 18.07.2021.pdf	INQ0000 84029
OPS-LG028 Health Protection (Coronavirus, Restrictions) (Steps) (England) Regulations 2021 - version 5 22.06.2022.pdf	INQ0000 84030

OPS-LG029 Health Protection (Coronavirus, Restrictions) (No.2) (England) Regulations 2020 version 1 03.07.2020.pdf	INQ0000 84031
OPS-LG030 Health Protection (Coronavirus, Restrictions) (No.2) (England) Regulations 2020 version 2 08.07.2020.pdf	INQ0000 84032
OPS-LG031 Health Protection (Coronavirus, Restrictions) (No.2) (England) Regulations 2020 version 3 10.07.2020.pdf	INQ0000 84033
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OPS-LG043 Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 effective from 26 March 2020 and 3 July 2020 v2	INQ0000 83984
OPS-LG044 Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 effective from 26 March 2020 and 3 July 2020 v3	INQ0000 83961
OPS-LG045 Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 effective from 26 March 2020 and 3 July 2020 v4	INQ0000 83965
OPS-LG046 Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 effective from 26 March 2020 and 3 July 2020 v5	INQ0000 83958
OPS-LG047 Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 effective from 26 March 2020 and 3 July 2020 v6	INQ0000 83963
OPS-LG048 Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 effective from 26 March 2020 and 3 July 2020 v7	INQ0000 83981
OPS-LG049 National restrictions on movement, gatherings and businesses (No.4 Regs), effective from 5 November 2020 v1	INQ0000 83999
OPS-LG050 National restrictions on movement, gatherings and businesses (No.4 Regs), effective from 5 November 2020 v2	INQ0000 83977
OPS-LG051 Health Protection (Coronavirus, Restrictions) (All Tiers) (England) Regulations 2020 - version 1 09.12.2020.pdf	INQ0000 84044
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OPS-LG055 Health Protection (Coronavirus, Restrictions) (All Tiers) (England) Regulations 2020 - version 5 18.01.2021.pdf	INQ0000 84048
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OPS-LG057 Health Protection (Coronavirus, Restrictions) (All Tiers) (England) Regulations 2020 - version 7 08.03.2021.pdf	INQ0000 84050



OPS-LG058 Health Protection (Coronavirus, Restrictions) (All Tiers) (England) Regulations 2020 - version 8 23.03.2021.pdf	INQ0000 84051
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OPS-LG062 Health Protection (Coronavirus International Travel and Operator Liability) (England) Regulations 2021 v3	INQ0000 83974
OPS-LG063 Health Protection (Coronavirus International Travel and Operator Liability) (England) Regulations 2021 v4	INQ0000 83983
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OPS-LG080 Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) Regulations 2020 v3	INQ0000 83987
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OPS-LG111 [Wales] International Travel Regulations - version 1 18.09.2020.docx	INQ0000 84087
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