Payment Outcomes of Police Fixed Penalty Notices registered by the Scottish Courts and Tribunal Service during the Coronavirus Pandemic

Professor Susan McVie OBE FRSE FAcSS
School of Law, University of Edinburgh
Payment Outcomes of Police Fixed Penalty Notices registered by the Scottish Courts and Tribunal Service during the Coronavirus Pandemic

Author: Susan McVie

Copyright © 2022 The University of Edinburgh


All rights reserved.

Published August 2022 by The University of Edinburgh
Edinburgh Law School
Old College
Edinburgh EH8 9YL
Acknowledgements

The analysis contained in this report is based on official statistics published routinely by the Scottish Courts and Tribunals Service (SCTS), and a linked administrative dataset for a sample of Fixed Penalty Notices (FPNs) issued by Police Scotland and registered by SCTS during the Coronavirus pandemic.

Acknowledgements and thanks are extended to: Janette Purbrick, Head of the Management Information Analysis Team, and Martin Flanagan, Fines Business Manager, at SCTS; the Operation Talla Information Collation Assurance and Liaison (OpTICAL) Cell within Police Scotland, led by ACC Gary Ritchie; and Dr Kath Murray at the University of Edinburgh for peer reviewing and editing versions of this report.

This analysis was undertaken to support the scrutiny role of the Independent Advisory Group (IAG) on Police Use of Temporary Powers related to the Coronavirus Crisis in Scotland, established by the Scottish Police Authority in April 2020. The views expressed herein do not necessarily reflect those of IAG members, and any opinions, interpretations of the data and errors are the sole responsibility of the author.
Contents

Executive Summary .......................................................................................................................... 5

1 Introduction .................................................................................................................................. 8
  1.1 Background to the Coronavirus Regulations in Scotland ......................................................... 8
  1.2 Differences between Covid and ASB FPNs ............................................................................. 9
  1.3 Contents of report .................................................................................................................. 10

2 SCTS Quarterly Fines Data ......................................................................................................... 11
  2.1 Quarterly Fines Data used in this report ................................................................................ 11
  2.2 Impact of the pandemic on enforcement and fine recovery processes ..................................... 11
  2.3 Number of police FPNs registered by SCTS ......................................................................... 12
  2.4 Payment outcomes for police FPNs registered by SCTS ......................................................... 14
  2.5 Long term trend in payment outcomes of police FPNs ............................................................ 15
  2.6 Comparing payment outcomes for Covid and ASB FPNs ....................................................... 16
  2.7 Comparing outcomes for Covid and ASB FPNs after discharge ............................................ 17
  2.8 Summary ............................................................................................................................... 19

3 Linked police and courts data on Covid FPNs .......................................................................... 20
  3.1 Linkage between Police Scotland and SCTS data ................................................................... 20
  3.2 Number of FPNs registered for payment by SCTS ................................................................. 21
  3.3 Outcomes for FPNs registered by SCTS ................................................................................ 21
  3.4 Outcome of Covid FPNs by demographic profile of the recipient .......................................... 22
    3.4.1 Analysis by sex .................................................................................................................. 23
    3.4.2 Analysis by Age ............................................................................................................... 23
    3.4.3 Analysis by ethnic group ................................................................................................. 24
    3.4.4 Analysis by country of birth ............................................................................................ 25
  3.5 Outcome of Covid FPNs by recipient’s criminal history ............................................................ 25
  3.6 Outcome of Covid FPNs by area deprivation ......................................................................... 26
  3.7 Outcome of Covid FPNs by issuing police division .................................................................. 27
  3.8 Outcome of Covid FPNs by number of tickets received ............................................................ 28
    3.8.1 SCTS outcomes for single and repeat FPN recipients ....................................................... 29
  3.9 Factors most strongly associated with payment ..................................................................... 29
    3.9.1 Regression modelling ...................................................................................................... 29
    3.9.2 Results of the modelling ................................................................................................. 30
  3.10 Summary ............................................................................................................................... 33

4 Rescinding of Covid FPNs ......................................................................................................... 35
  4.1 Response of Police Scotland to FPNs issued in error ............................................................... 35
4.2 Profile of rescinded Covid FPNs .................................................................36
4.3 Summary ........................................................................................................38
5 Conclusion.........................................................................................................39
  5.1 A substantial increase in the number of police FPNs .................................39
  5.2 A delayed, rather than diminished, pattern of payment .............................40
  5.3 Different outcomes for Covid and ASB FPNs .............................................40
  5.4 Public acceptability of the Covid FPNs ......................................................41
  5.5 Legitimacy and fairness of the Regulations ..............................................42
  5.6 Police checks and balances .......................................................................43
  5.7 Benefits and limitations of the data ..........................................................44
Appendix 1 ........................................................................................................45
References ........................................................................................................46
Executive Summary

Introduction

- This is one of a series of reports aimed at informing the work of the Independent Advisory Group on Police Use of Temporary Powers related to the Coronavirus Crisis in Scotland.
- The report examines payment outcomes for police Fixed Penalty Notices (FPNs) introduced under the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020 using data from two separate data sources:
  - Publicly available statistics from SCTS on aggregate payment outcomes for FPNs.
  - A linked dataset using individual-level data from Police Scotland and SCTS for FPNs issued between March and May 2020.
- The report compares payment outcomes for FPNs issued under the Regulations ('Covid FPNs') with those issued for anti-social behaviour ('ASB FPNs').
- Covid FPNs differed from ASB FPNs in three important ways, which may have influenced differences in the likelihood of payment: the face value of the initial fine; the consequence of early payment; and the value of any subsequent fines.
- Covid FPNs were priced at £60, but this was reduced to £30 if paid within 28 days which may have acted as a psychological nudge to encourage payment; in comparison, ASB FPNs were priced at £40 and increased to £60 if unpaid within 28 days.
- Individuals in Scotland could be issued up to four Covid FPNs (under Lord Advocate guidelines), with the value doubling each time to a maximum of £480.
- These incrementally increasing fines meant much larger financial penalties for repeat Covid offences, which is not the case for repeated acts of anti-social behaviour.
- Examining payment outcomes for Covid FPNs provides important information about the impact of these financial penalties, and acts as a useful indicator of the perceived legitimacy and fairness of the Coronavirus Regulations amongst members of the public.
- This report provides an innovative example of linkage between Police Scotland and SCTS data for research purposes, and supports the work of the IAG in taking a rights-based approach to scrutiny of the impact of the Regulations.

SCTS Quarterly Fines Data

- Quarterly Fines Reports show that over 23,000 FPNs were registered by SCTS during 2020/21, more than twice that of the pre-pandemic year.
- A further 8,000 FPNs were registered in the first nine months of 2021/22, a reduction compared to 2020/21 but still higher than pre-pandemic levels.
- The increase in police FPNs was a direct result of the introduction of the Coronavirus Regulations (as the number of ASB FPNs declined).
- Payment of FPNs registered during 2020/21 was significantly delayed compared to previous years; however, payments caught up over time and had returned to pre-pandemic levels in 2021/22.
- Delays in payment were most likely explained by the suspension of SCTS counter services, the introduction of contingency arrangements for registering and processing the new FPNs, and the increase in the volume of FPNs issued.
- Based on long-term payment outcomes, there is no evidence that FPN recipients were less willing or able to pay their fines during the pandemic compared with previous years.
- A significantly higher percentage of Covid FPNs were paid in full (73%) compared to ASB FPNs (58%) during the pandemic, which suggests public acceptance of the financial penalties introduced under the Regulations.
• Analysis of the monetary value of fines repaid suggests that repeat Covid FPNs (with a value £120 or more) were less likely to be paid than initial fines.
• The consistently higher level of payment suggests that people issued with Covid FPNs may have been generally more law abiding and/or affluent than those in receipt of ASB FPNs.

Linked Police Scotland and courts data on Covid FPNs
• Individual level data on FPNs issued by Police Scotland between 27 March and 31 May 2020 were linked to SCTS information about the initial payment outcomes of these fines.
• SCTS data included four outcomes: 'paid'; 'withdrawn' (by Police Scotland); 'rejected' (by the individual recipient); and converted to a ‘Court Registered Fine (CRF)’ (by SCTS).
• Payment outcomes data were correct as at September 2020; however, information on the long-term outcomes of CRFs could not be provided, so the analysis reflects only a partial picture of payment.
• Of the 4,327 Covid FPNs issued by the police, 94% were matched to SCTS payment data.
• Around 8% of all FPNs issued by Police Scotland were cancelled or rescinded, which is far lower than some other UK police forces.
• A quarter of Covid FPNs registered between March and May 2020 were fully paid by September 2020, which was slightly (but significantly) higher than ASB FPNs.
• Very few FPNs were rejected by the recipient, which provides some evidence that few people objected strongly enough to dispute the reason for the ticket being issued.
• The Covid FPNs most likely to be paid were issued to:
  o people in the youngest (under 21) and oldest (over 60) age groups;
  o those from minority ethnic backgrounds (excluding white minority groups);
  o people who were born outside the UK;
  o those who did not have a prior criminal history with Police Scotland;
  o individuals living in the least deprived communities;
  o people who breached the Regulations in more rural police divisions;
  o and those who were issued with only one Covid FPN.
• The likelihood of non-payment was greatest amongst people who had a prior criminal history, those living in Scotland’s most deprived communities, and repeat FPN recipients.

Rescinded Covid FPNs
• The rapid introduction of the Regulations in March 2020 meant that Police Scotland could not roll out force-wide training, so procedures were put in place to review all Covid FPNs.
• FPNs were most likely to be rescinded during the first few weeks of lockdown, when both police officers and members of the public were adjusting to the new Regulations, but there was a steep decline in rescinding from mid-April onwards.
• FPNs issued during evening/night time hours, and those issued in relation to incidents occurring indoors (such as parties) were most likely to be rescinded.
• Divisions in the North of Scotland rescinded the highest proportion of Covid FPNs; but the divisions with the highest rescinding rates issued the smallest number of FPNs overall.
• Rescinding was more common for Covid FPNs issued to women, younger people, and individuals who received more than one FPN; however, there was no difference based on the other factors studied in this report.
• Incidents during the early stages of lockdown that involved certain types of people or circumstances may have been more susceptible to error on the part of officers.
• The data on rescinding suggests that the vast majority of Covid FPNs were issued in line with the Regulations, but monitoring was in place to identify and rectify errors and ‘good faith mistakes’.
Conclusion

- This report provides unique insights into payment outcomes of FPNs issued during the pandemic in Scotland, which helps assess the legitimacy and fairness of the Regulations.
- While FPN payments were delayed, especially during the early months of the pandemic, there is no evidence of a long term detrimental impact on payment outcomes when compared to previous years.
- Differences in payment patterns for Covid and ASB FPNs suggest that recipients of the former were generally more willing and/or able to pay their fines, and may have included a higher proportion of people from more affluent social backgrounds.
- Payment patterns for Covid FPNs suggest as much, if not more, public acceptance of the Coronavirus Regulations as existing anti-social behaviour legislation.
- The offer of a discounted early payment for Covid FPNs may have incentivised or ‘nudged’ people to pay, in contrast to the threat of a late payment penalty for ASB FPNs.
- Non-payment of repeat Covid FPNs raises serious questions about the legitimacy and fairness of an incremental fining structure which disproportionately penalised those who were least willing and/or able to comply with the Regulations.
- The absence of scrutiny or equality assessment surrounding the introduction of the Coronavirus Regulations, and the lack of any ongoing debate or evaluation of the potential impact of this legislation on those most likely to be subject to it, is a matter of concern.
- The possibility of issuing tickets in error was recognised from the outset and monitoring was in place to identify those that were not, although the data on rescinding provides reassurance that most fines were issued in line with the Regulations.
- While there were limitations to the data used in this report, they are valuable in supporting a rights based approach to scrutiny of the temporary policing powers.
1 Introduction

1.1 Background to the Coronavirus Regulations in Scotland

This data report was produced to assist and inform the deliberations of the Independent Advisory Group (‘the IAG’) on Police Use of Temporary Powers related to the Coronavirus Crisis in Scotland. The IAG was established by the Scottish Police Authority (SPA) in April 2020, under the chairmanship of John Scott QC Solicitor Advocate, to provide additional scrutiny of policing during the course of the pandemic in Scotland.

The Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020 (hereafter the ‘Regulations’) placed unprecedented restrictions on the lives of members of the public in Scotland, making unlawful many activities that under normal circumstances, would have been ordinary law-abiding behaviours. To help secure public adherence to the Regulations, the police were given temporary enforcement powers, including powers to issue Fixed Penalty Notices (FPNs) or, in more extreme cases, to arrest and charge individuals in breach of the Regulations. From the outset, Police Scotland stated that a measured approach would be taken to implementing these new powers and, like other police forces across the UK, it adopted a ‘4Es’ approach based on Engagement, Explanation, and Encouragement, with Enforcement to be used only as a last resort.¹

The Regulations in Scotland gave police officers the power to issue FPNs to any person aged 16 or over² ‘that the constable reasonably believes has committed an offence under these Regulations’. In practice, this had the effect of discharging a person of any liability to conviction for the offence (Regulation nine). Under the Regulations, up to five FPNs could be issued, starting at a value of £60 and doubling each time to a maximum of £960; although subsequent guidance issued by the Lord Advocate instructed officers to issue a maximum of four FPNs (up to a value of £480).³ It is important to note that this incrementally increasing fine structure introduced by the Regulations was very different to the existing system of police FPNs, and reflected much bigger financial penalties, as will be discussed later in this report.

Drawing on its Terms of Reference⁴, the IAG identified three priority areas of scrutiny in respect of the Regulations: 1) police application of the new enforcement powers; 2) public acceptability of the new powers; and 3) public compliance with the new powers. In relation to public acceptability, it was agreed that payment outcomes for FPNs issued under the Regulations (Covid FPNs), and how these compared to payment outcomes for FPNs issued in relation to anti-social behaviour (ASB FPNs), could provide important insights into the impact of these new financial penalties. Payment outcomes were also considered a useful proxy measure of the perceived legitimacy of the new powers amongst members of the public.


² According to Regulation 9 of the Health Protection Regulations, FPNs could be issued to anyone aged 16 or over; however, following pressure from the Children & Young People’s Commissioner Scotland, the Coronavirus (No. 2) (Scotland) Act amended Regulation 9 to raise the minimum age to 18, which came into effect on 27th May. This was intended to bring it in line with the UN Convention on the Rights of the Child, Police Scotland’s ‘Policing Approach to Children and Young People 2016-2020’ and respond to calls by the UN to ensure children’s rights were safeguarded during the pandemic.

³ Lord Advocates Guidelines issued in November 2020 advised that it was not appropriate to issue an FPN to anyone who had already received four under the Coronavirus Regulations, and indicated that they may instead be referred to the Procurator Fiscal: https://www.copsfs.gov.uk/images/Documents/Prosecution_Policy_Guidance/Lord_Advocates_Guidelines/Lord%20Advocates%20Guidelines%20on%20the%20Operation%20of%20the%20FPN%20Scheme%202021.10.20.pdf

⁴ For details of the IAG Terms of Reference see https://www.spa.police.uk/spa-media/5phinni/tor-final-27-4-20.pdf
Whilst the analysis contained in this report cannot directly assess public acceptance of the temporary powers given to Police Scotland, it does show how payment patterns for FPNs issued during the pandemic differed from previous years, and compares payment of Covid and ASB FPNs issued during the pandemic, which provides useful insights into the impact of the new legislation. In this respect, the findings of this report support the work of the IAG in assessing the perceived legitimacy and fairness of the underpinning regulatory framework.

The analysis presented in this report uses data from two separate sources. Section 2 provides aggregate-level analysis of publicly available SCTS official statistics on Quarterly Fines data (including Covid and ASB FPNs); while Sections 3 and 4 examine individual-level data on Covid FPNs issued by Police Scotland that was linked to SCTS data on payment outcomes. Linking police and courts data in this way allowed detailed comparison between those who did and those who did not pay their fines within a prescribed period, taking account of any differences in the characteristics of each group. It also enabled identification of Covid FPNs that were issued but not pursued for payment by SCTS (i.e. rescinded). This represents an innovative and unique use of administrative data linkage between Police Scotland and SCTS for research purposes. Moreover, the analysis of payment patterns across different demographic and social groups supported the work of the IAG in taking a human rights based approach to scrutinising the impact of the new powers.

1.2 Differences between Covid and ASB FPNs

The report distinguishes between police FPNs issued under the Coronavirus Regulations (hereafter referred to as ‘Covid FPNs’) and on the spot fines issued under the Antisocial Behaviour etc. (Scotland) Act 2004, which covers minor public order offences such as vandalism, public drunkenness, and breach of the peace (hereafter referred to as ‘ASB FPNs’). The report does not include vehicle-related fines (such as parking tickets or other motoring fixed penalties), or fines offered by the Procurator Fiscal.

Covid FPNs differed from ASB FPNs in three key ways: the value of the initial penalty; the consequence of non-payment within 28 days; and the use of an incremental fine structure for Covid FPNs. It is important to highlight these differences here as all three may have had an effect on variation in payment patterns between Covid and ASB FPNs.

ASB FPNs incur a penalty of £40, which is increased to £60 if unpaid within 28 days (due to the addition of a surcharge). On the contrary, the monetary value of Covid FPNs (for a first offence) was set at £60, but lowered to £30 if paid within 28 days. In other words, the former fine incurs a late payment penalty, whereas the latter offers an early payment discount. In theory, offering a positive reward (such as a discount) is believed to offer a psychological ‘nudge’ to induce good behaviour (Thaler and Sunstein 2008). So, while the face value of Covid FPNs was higher than that for ASB FPNs, nudge theory would suggest that the offer of a discount should have acted as a greater incentive for people to pay Covid FPNs compared to the threat of surcharge in the case of anti-social behaviour fines. Although, there is very little research on the efficacy of different fine enforcement methods, and the evidence that exists suggests the impact of incentives is not straightforward.5

An additional complicating factor in the case of Covid FPNs was the introduction of an incremental fining structure for repeated offences. Police officers in Scotland could issue up to

---

5 Economic research indicates that while financial incentives can encourage good behaviour, their effectiveness depends on a range of other factors (Bowles and Polania-Reyes 2012). An experimental study which tested likely payment of traffic fines found only marginal differences in payment likelihood between fines that were discounted and those that incurred a higher penalty (du Plessis et al. 2020).
four FPNs on an incremental scale, doubling from a minimum of £60 to a maximum of £480 (following Lord Advocate guidelines). In the case of ASB FPNs, any individual issued more than one fine under the 2004 Act would receive additional fines of the same value. There are no other examples in UK legislation where incremental fines are used, so it is not possible to be certain about the likely impact on payment behaviour; however, research on the repeated use of monetary sanctions has shown that people from deprived and impoverished social backgrounds are disproportionately impacted, resulting in significant legal debts which have a low likelihood of payment (Harris 2016).

1.3 Contents of report
Section 2 examines overall payment outcomes of Covid and ASB FPNs and compares data for 2020/21 with previous years. It presents analysis of aggregate-level data from the SCTS Quarterly Fines Reports (QFRs), which are published online as routine management information. The analysis focuses on payment outcomes for all FPNs registered by SCTS between 26 March 2020 and 31 December 2021, and compares the outcomes of fines issued under the Coronavirus Regulations with those issued under the Antisocial Behaviour etc. (Scotland) Act 2004.

Section 3 uses linked Police Scotland and SCTS data to compare the initial payment outcomes for Covid FPNs according to the characteristics of the individuals who received them (i.e. age, sex, ethnicity, country of birth, prior criminal history and residential deprivation level) and the context of the encounters (i.e. where and when the fine was issued). It also examines the likelihood of payment based on how many Covid FPNs were issued. This analysis focuses on FPNs issued during the initial lockdown period, between 27 March and 31 May 2020.

Section 4 looks at the profile of rescinded Covid FPNs, that is, fines cancelled by Police Scotland after issue, or withdrawn after having been reported to the SCTS. The analysis provides insight into the validation procedures put in place by Police Scotland to rectify situations where tickets were issued in error.

Finally, Section 5 summarises the key findings and offers some concluding thoughts.

---

6 SCTS Quarterly Fines Reports can be accessed here: https://www.scotcourts.gov.uk/official-statistics
2 SCTS Quarterly Fines Data

2.1 Quarterly Fines Data used in this report
This section of the report examines the number and payment outcomes of FPNs issued during the pandemic at an ‘aggregate’ level. The analysis is based on management information for all police FPNs registered by SCTS, which is publicly available from published Quarterly Fines Reports (QFRs). The QFRs for 2020/21 and 2021/22 include data on FPNs issued under the Coronavirus Regulations in addition to those issued under the Antisocial Behaviour etc. (Scotland) Act 2004, and allow comparison of payment outcomes for Covid and ASB FPNs.

Using data from QFR10 to QFR52, covering the financial years 2011/12 to 2021/22, change over time in the number of FPNs was examined and payment patterns for FPNs registered by SCTS during the pandemic was compared with previous years. Differences between payment outcomes for Covid and ASB FPNs, taking account of both the total number of FPNs paid and the total value of FPNs repaid, were also studied.

As noted in Section 1.2, there were distinct differences between Covid and ASB FPNs in terms of the monetary value, consequences of early payment, and the incremental value of repeat tickets. As such, there are limitations to the conclusions that can be drawn about differences in payment between fine types, or across years (this is discussed in more detail in later sections of the report). Nevertheless, the analysis does provides evidence that the profile of individuals who were issued with Covid FPNs may have been distinctly different to that of those issued with ASB FPNs.

Before presenting the results of the QFR data analysis, it is important to consider the practical impacts of the pandemic on enforcement and fine recovery processes as these are likely to have impacted on patterns in the data and reduced comparability with previous years. Based on discussions with members of Police Scotland and the SCTS, these impacts are summarised in the next section of the report.

2.2 Impact of the pandemic on enforcement and fine recovery processes
The speed at which the Coronavirus Regulations were introduced in March 2020 had a significant impact on all aspects of life across the UK. It was imperative for key public services – including the police and other criminal justice organisations – to maintain a core level of operational functionality; therefore, police officers had to come to terms with the new temporary powers, and both Police Scotland and the SCTS had to quickly put contingency arrangements in place to deal with the new Covid FPNs.

In the initial weeks of lockdown, police officers were required to issue paper tickets as it took some time to reconfigure the electronic devices used to record and submit incidents. The tickets had to be collated from each of the 13 Scottish divisions and checked manually. This also necessitated the creation of a new spreadsheet-based system of recording Covid FPNs in order to share data on fines with the SCTS. These procedural changes resulted in some delays between Covid FPNs being issued to individuals and the relevant information being shared with the SCTS for registration and payment.

The fact that subsequent fines issued under the Coronavirus Regulations increased in monetary value meant that police officers had to be cognizant of whether a previous fine had been issued and adjust the value of the current FPN accordingly. However, the reliance on paper tickets made it difficult to check how many Covid FPNs had already been issued to individuals. In a
limited number of cases, this resulted in individuals being issued with more than one ticket of the same value (this is discussed in section 3.2 of McVie 2021).

There were also important changes to payment procedures, as SCTS public counter services were suspended for health protection reasons (to minimize footfall and social contact), which precluded face-to-face payment of fines. New arrangements for working from home for SCTS staff also required the establishment of new processes for registering and recording Covid FPNs. With counter services suspended, tickets could only be paid using online, telephone or postal methods. Once electronic systems had been adapted to reflect the new fine amounts, online and automated telephone payments could be processed relatively quickly. However, non-automated telephone payments took longer, and there were considerable delays in processing postal payments received during the initial lockdown as this could only be done once restrictions eased. As a result, arrangements were put in place to ensure that payments posted within the 28-day discount period received the eligible reduction.

Whilst fines, by their nature, require time to pay, the necessary changes to SCTS working practices inevitably caused further delays in terms of payment. To account for this, the analysis in this section examines the long term status of payment outcomes as recorded by 25 April 2022. It is still possible that the figures presented may have been affected by delays in registering and processing FPNs, which slowed down payment. It is also possible that the closure of counter services could have impacted on patterns of payment (for example, for individuals with no regular access to digital technology or a telephone, or those who were unable or unwilling to use postal services to pay their fine). However, the data analysis contained in this report suggests that the disruption was mainly limited to FPNs registered during the early months of the pandemic.

2.3 Number of police FPNs registered by SCTS
This section of the report examines the total number of police FPNs (combining Covid and ASB) registered by SCTS during the pandemic and compares this to the longer term trend. QFR data are presented by financial year using mainly Quarter 4 (Q4) data (i.e. covering the full 12 months from 1 April to 31 March); however, data for 2021/22 were available only for Q3 (i.e. covering the 9 months from 1 April to 31 December 2021).

During 2020/21, there were 23,069 police FPNs registered by SCTS (QFR49); while, a further 8,400 FPNs were registered during the first 9 months of 2021/22 (QFR52). To set these numbers in context, Figure 1 shows how the number of FPNs registered during these two years differed to the number registered annually between 2011/12 and 2019/20. Since only partial data were available for 2021/22, two trend lines are shown: one for Q3 (which includes all FPNs registered between 1 April and 31 December within each financial year); and another for Q4 (which includes all FPNs registered during the full financial year, but excluding 2021/22). The figures discussed below mainly relate to the data for Q3; however, comparing the trend for Q3 data is helpful in predicting the likely Q4 trend for 2021/22.

Figure 1 shows a large and continuous fall in the number of police FPNs registered annually by SCTS, from just over 53,000 in 2013/14, to just under 6,700 in 2019/20. This represents an 89% reduction in the number of police FPNs registered over a six year period, and coincides with the early years of the establishment of Police Scotland following the amalgamation of Scotland’s eight legacy forces. There is evidence to suggest that this large reduction was related
to changing practice within the legacy Strathclyde police force area, as concern had been raised about the much higher rate of fining here compared to other parts of Scotland.\footnote{Prior to the creation of the single police service, the legacy Strathclyde police force placed a strong emphasis on policing anti-social behaviour, with targets set for anti-social behaviour such as consuming alcohol in public, and urinating/defecating in a public place. Scottish Government research published in 2009 showed that the vast majority of FPNs were being issued in relation to these types of anti-social behaviour (Cavanagh 2009). However, a report by the Strathclyde Police Authority in 2012 was critical of the very high level of use of FPNs in Strathclyde (which accounted for around three quarters of all fines nationally) as payment rates were much lower than for other legacy force areas, and recommended that urgent action be taken to improve compliance rates (see Audit Scotland and HMICS 2012).}

Figure 1: Trend in the number of police FPNs registered by SCTS between 2011/12 and 2021/22

Source: Published SCTS QFR reports for Q3 and Q4 from 2011/12 to 2020/21, and Q3 only for 2021/22*.

The sharp rise in police FPNs registered during 2020/21 (to just over 23,000), which represents a 2.4 fold increase compared to the previous year, is fully explained by the introduction of the Coronavirus Regulations since the number of ASB FPNs registered by SCTS in 2020/21 was substantially lower than that for 2019/20 (as discussed below).

The number of FPNs registered during Q3 of 2021/22 was around a third lower than the equivalent period of the previous year. Given that many of the restrictions had already been lifted, and police enforcement of Covid-related breaches had waned by this point, it is unlikely that the Q4 figure will be anywhere near as high as that for 2020/21. Nevertheless, the number of FPNs registered during the first 9 months of 2021/22 was still 46% higher than for the same period in 2019/20.

Overall, Covid FPNs represented 70% of all police fines registered during the pandemic (i.e. between 26 March 2020 and 31 December 2021), reflecting a large ‘excess’ in the use of police financial penalties. It is not, however, possible to estimate the additional number of fines issued as a direct result of the pandemic for two main reasons. First, the requirement to stay at home for large periods during 2020/21 is likely to have reduced the number of ASB FPNs because there were fewer opportunities for people to offend in public places. Second, some offences that would normally have resulted in an FPN under anti-social behaviour legislation may instead
have been dealt with using the Coronavirus Regulations. Nevertheless, it is clear that the introduction of the Regulations resulted in a significant rise in court business during 2020/21 and 2021/22.

2.4 Payment outcomes for police FPNs registered by SCTS

This section examines payment outcomes for police FPNs issued during the two years of the pandemic and compares them to the pre-pandemic year (2019/20). Comparison is made using equivalent data (i.e. measuring payment outcomes using the same follow-up period for each financial year) to maximise comparability. Full comparison of Q4 data could be made for 2019/20 and 2020/21; whereas, comparison with 2021/22 data could only be made using Q3 data.

Table 1 provides a detailed breakdown of payment outcomes for FPNs registered during the pandemic years compared to 2019/20, using equivalent follow-up data. On the left, payment outcomes for Q4 show that 66% of all FPNs registered by SCTS during the financial year 2019/20 were paid in full (by July 2020). Whereas, a slightly lower proportion (63%) of FPNs registered during 2020/21 were paid in full during the equivalent period (by July 2021). Although these figures suggest that fine payment was less likely during the first year of the pandemic compared to the previous year, a higher proportion of payments were recorded as being on track at Q4 (9% in 2020/21 compared to 3% in 2019/20). This means that arrangements had at least been made for the fine to be paid, with the consequence that the proportion of FPNs for which no payment had been made at all was lower in the first year of the pandemic than the previous year.

Comparing data for Q3, the figures on the right hand side of Table 1 show that payment outcomes for FPNs registered during the first 9 months of 2021/22 were in line with pre-pandemic figures. The percentage of FPNs paid in full during the equivalent follow-up period was identical for 2019/20 and 2021/22, whereas it was 10 percentage points lower for 2020/21. Moreover, the percentage of FPNs where no payment had been made at all was lowest in 2021/22.

Table 1: Payment outcomes for FPNs registered in 2019/20 and 2020/21 (Q4) and in 2019/20, 2020/21 and 2021/22 (Q3)

<table>
<thead>
<tr>
<th></th>
<th>Payment outcomes at Q4 (%)</th>
<th>Payment outcomes at Q3 (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Paid in full</td>
<td>66</td>
<td>63</td>
</tr>
<tr>
<td>Payment on track</td>
<td>3</td>
<td>9</td>
</tr>
<tr>
<td>In arrears</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>No payment made</td>
<td>29</td>
<td>27</td>
</tr>
<tr>
<td>Total number</td>
<td>6,696</td>
<td>23,069</td>
</tr>
</tbody>
</table>

Source: Published SCTS QFR reports for Q4 (QFR45 and QFR49) and Q3 (QFR44, QFR48 and QFR52).

The data presented here suggest that the Coronavirus outbreak resulted in a slightly lower proportion of police FPNs being paid during the first year of the pandemic compared to the previous year; however, payment levels recovered in the subsequent year. Even when payment
had not been made, a higher proportion of payments were recorded as being on track during the pandemic years, suggesting that a higher proportion of payments may simply have been delayed.

2.5 Long term trend in payment outcomes of police FPNs
To confirm whether the pandemic created a delay, rather than a diminished, pattern of payment, this section of the report examines the patterning of FPN payment outcomes during previous financial years. The aim was to determine whether the slight drop in payment during 2020/21, as discussed in section 2.4, was simply due to random variation. Data from QFR reports going back to 2011/12 show the cumulative proportion of all FPNs registered by the end of Quarter 2 (between April and September), the end of Quarter 3 (between April and December), and the end of Quarter 4 (between April and the following March) for each financial year. Even though Q4 data were not yet available for 2021/22, data for Q2 and Q3 were included as they demonstrate much more similarity with previous years than 2020/21.

Figure 2 shows the percentage of police FPNs registered between 2011/12 and 2021/22 that were paid in full during each financial quarter. The three time points allow us to identify both the overall payment level (by Q4) and potential delays at earlier points in time (Q2 and Q3). There are three important things to note from Figure 2.

First, the proportion of FPNs paid in full by the end of Q4 increased steadily over time, from 60% in 2011/12 to 66% in 2017/18, and then remained relatively stable at around 66% until 2019/20. The overall payment rate of 63% in 2020/21 was, therefore, slightly lower than expected given the trend shown over previous years.

![Figure 2: Percentage of police FPNs paid in full, by end of Quarter, from 2011/12 to 2021/22](source: Published SCTS QFR reports for Q2, Q3 and Q4 from 2011/12 to 2020/21; and *Q2 and Q3 for 2021/22.)
Second, for most years there were only incremental gains in the payment rate by the end of Q3 and Q4, compared to Q2. This suggests that payment patterns were normally stable throughout the year. Consequently, 2020/21 stands out as having a much lower payment rate by the end of Q2 and Q3 compared to previous years. This indicates a substantial delay in payments being made, especially for FPNs registered during the early months of the pandemic.

Third, despite the pattern of delay, payment levels did catch up over time during 2020/21. In fact, the most recent published data show that, by April 2022, 70% of all FPNs registered during 2020/21 were paid in full (QFR52). This is identical to the proportion of fully paid FPNs registered during 2019/20, as recorded at April 2021 (QFR49). Moreover, the quarterly breakdown for 2021/22 suggests that the rate of payment had fully recovered to pre-pandemic levels.

Together with the data on the proportion of payments on track for payment (Table 1), the trends shown in Figure 2 provide compelling evidence that the unusual payment pattern in 2020/21 was entirely due to administrative and procedural delays, rather than a decline in ability or willingness to pay amongst FPN recipients. As a result, the proportion of FPNs registered during the pandemic that are likely to be paid in full will meet, or even exceed, that of previous years.

2.6 Comparing payment outcomes for Covid and ASB FPNs
The analysis presented so far has looked at overall FPN payment outcomes; however, this may conceal important differences between FPNs issued in relation to the Coronavirus Regulations and those issued for anti-social behaviour. Therefore, this section of the report compares outcomes for Covid and ASB FPNs to determine whether they were equally affected by the same procedural delays, or whether there is evidence of any difference in terms of ability or willingness to pay. The analysis is based on QFR52 data tables, which include information about all police FPNs registered between 26 March 2020 and 31 December 2021 (it is not possible to present the findings by different financial years).

Section 1.2 highlighted three key differences between FPNs issued for breaches of the Covid Regulations and those issued for anti-social behaviour offences under the 2004 Act, in terms of monetary value, the consequences of early payment, and the incrementally increasing nature of the Covid fines. The analysis in this section compares payment outcomes between Covid and ASB FPNs with a view to providing insight into the perceived legitimacy of the Regulations and police enforcement in relation to behaviour that, under normal circumstances, would have been law-abiding. However, it is worth reiterating that the differences in the nature of the fines make it difficult to be certain about the reasons for any differences in payment behaviour by members of the public.

Between 26 March 2020 and 31 December 2021, 32,469 police FPNs were registered, of which 70% were Covid FPNs. While the majority (69%) of these FPNs had been paid in full by April 2022, likelihood of payment was significantly higher for Covid FPNs. On the left, Figure 3 shows that 73% of Covid FPNs were paid in full, compared with only 58% of ASB FPNs. This 15 percentage point difference in payment rate provides no indication that FPNs issued for breaches of the Coronavirus Regulations were considered less legitimate than FPNs issued for other reasons. In fact, quite the opposite, since the overall proportion of Covid FPNs paid was higher than the average for the last three years (as shown in Figure 2). However, Figure 3 does raise questions as to why ASB FPNs were far less likely to be paid – both in comparison to Covid FPNs during the pandemic and in comparison to ASB FPNs issued during previous years.
SCTS also publishes information about the total monetary value (in £s) of FPNs repaid. This is important in the context of the pandemic because, as noted earlier, the Regulations allowed police officers to issue multiple FPNs on an incremental scale, doubling from a minimum of £60 to a maximum of £480 (taking account of Lord Advocate’s guidance). While it is not possible from the SCTS data to ascertain the likelihood of payment based on the value of individual tickets, it is possible to compare the overall value of tickets paid by type of FPN.

Figure 3: Payment of police FPNs registered by SCTS between 26 March 2020 and 31 December 2021 based on number and value

Source: Published SCTS QFR52 Data Tables - Police Covid Fixed Penalties.

On the right, Figure 3 shows that 63% of the monetary value of Covid FPNs was repaid, compared to 55% of ASB FPNs. While statistically significant, this eight percentage point difference represents a far narrower payment gap than the 15 percentage point difference in the number of Covid and ASB fines paid (shown on the left of Figure 3). The most likely explanation for this narrowing of the gap is that Covid tickets of a higher value were less likely to be paid than those of a lower value. In other words, it appears that people issued with multiple police Covid FPNs were less likely to pay their fines (or at least, less likely to pay those of a higher value) compared to those issued with one Covid FPN.

It is also possible that people issued with multiple Covid FPNs were disproportionately concentrated amongst those for whom payment was still 'on track', which means this payment gap could still reduce over time. Further analysis of later QFR reports would be needed to verify whether this was the case.

2.7 Comparing outcomes for Covid and ASB FPNs after discharge

Fines that are not paid directly to SCTS within a certain period of time (and are not otherwise withdrawn or challenged) are converted to Court Registered Fines (CRFs). This means that the fine is registered for collection and enforcement by SCTS Fines Enforcement Officers (FEOs), after which payment may be pursued in a number of ways.8 QFR reports provide information on

---

8 Court Registered Fines may be pursued for payment by means of an Enforcement Order, Deductions for Benefits Order, Earnings Arrestment Order, Supervised Attendance Order, or an Arrestment of Funds Order.
the outcome of CRFs in terms of how many have been fully paid or not (and, if not, how many are on track for payment, in arrears, or fully unpaid). In a small proportion of cases, payment of CRFs may be discharged (in full or part) by a member of the judiciary after taking account of the individual circumstances of a case or the individual involved (for example, where it is considered likely that the ticket will never be paid).

Just over half (53%) of all Covid FPNs were paid before being registered for collection and enforcement by FEOs, compared with just a third (35%) of ASB FPNs. In other words, Covid FPNs were significantly more likely to be paid quickly compared to those issued for anti-social behaviour.

Once converted to CRFs, Covid fines were also more likely to be paid than ASB fines. This is illustrated in Figure 4, which shows the outcomes for all Covid and ASB CRFs. Overall, 40% of Covid CRFs were paid in full, compared to 33% of ASB CRFs. There was very little difference in the proportion of CRFs that were discharged, still on track for payment, or in arrears. The main difference between the two types of CRFs was the proportion for which no payment had been received, which was higher for ASB CRFs (43%) than for Covid CRFs (37%).

Importantly, only 4% of CRFs were discharged for both types of CRF, which means there was no difference in the likelihood that a member of the judiciary would discharge the CRF due to inability to pay.

Figure 4: Comparison of outcomes for all Covid and ASB Court Registered Fines (CRFs) in 2020/21

Source: Published SCTS QFR52 Report.

The higher rate of payment (especially within 28 days) for Covid FPNs could be explained by various factors. As mentioned in Section 1.2, the early payment discount for Covid fines may have acted as a psychological ‘nudge’ which incentivised payment, as opposed to the threat of an increased penalty in the case of ASB fines. In addition, the slightly lower discounted value of Covid FPNs (£30, if paid within 28 days, compared to £40 for an ASB FPN), may have increased the ability or willingness of people to pay these fines. Both of these factors would help to explain the higher rate of early payment, but not the higher rate of payment after conversion to a CRF.

It is feasible that the overall demographic profile of those who received Covid FPNs may have differed to those receiving ASB FPNs. Previous research has shown that those who were subject to enforcement for breaching the Coronavirus Regulations during the first lockdown
period were disproportionately likely to be living in one of Scotland’s most deprived communities; however, this changed over time to reflect a more balanced social gradient of FPN recipients (see section 8.2 of McVie and Matthews 2021). While it is not possible to compare the socio-economic profile of Covid and ASB FPN recipients, it is plausible that individuals who were fined for breaching the Regulations may (on average) have been more economically advantaged and, therefore, more able to pay their fines compared to those who were committing offences involving anti-social behaviour during this period. Differences in socio-economic status could well explain the higher likelihood of payment for Covid FPNs, even after conversion to a CRF.

2.8 Summary

Financial year data published by the SCTS show a substantial increase in police FPNs registered during 2020/21, which was a direct result of the introduction of the Coronavirus Regulations. Preliminary figures suggest that the number of Covid FPNs registered in 2021/22 was far lower than the previous year, but still higher than pre-pandemic levels.

Analysis by quarter demonstrates that FPNs registered during the early months of 2020/21 were paid at a far slower rate during the pandemic than at any time over the previous decade. Nevertheless, payment rates did catch up over time and figures for 2021/22 provide no indication of a long term effect on speed or likelihood of payment. The payment delays are most likely explained by the severe disruption to information sharing and payment collection processes during the early months of the pandemic.

The proportion of FPNs paid in full during 2020/21 was only slightly lower than the equivalent period for 2019/20, although a larger than usual proportion were still on track for payment. Preliminary data for 2021/22 indicate that fine payment rates largely returned to pre-pandemic levels, and may even exceed that of previous years.

Taken as a whole, the SCTS data do not suggest that people were less likely to pay their FPNs during the course of the pandemic. However, analysis by FPN type reveals that Covid FPNs were significantly more likely to be paid than ASB FPNs. This suggests that most members of the public who received fines for breaching the Coronavirus Regulations did appear to accept the legitimacy of the penalty. However, it raises questions as to why ASB fines were so much less likely to be paid (even when compared to previous years).

Just over half of Covid FPNs registered between March 2020 and December 2021 were paid quickly (i.e. before registration as Court Registered Fines or CRFs), compared to just a third of ASB FPNs. It is possible that the offer of a discounted tariff, and the lower value of a Covid FPN if paid within 28 days, may have acted as a ‘nudge’ to encourage people to pay their fines quickly. However, Covid FPNs that were not paid within 28 days and became CRFs were still more likely to be paid than ASB CRFs. It is feasible that those who were fined for breaching the Coronavirus Regulations were (on average) either better able or more willing to pay their fines compared to those who received FPNs for anti-social behaviour during the pandemic.

There was a smaller payment gap between Covid and ASB FPNs in terms of the monetary value of fines repaid. This suggests that, while Covid FPNs were more likely to be paid overall, those issued at higher values (e.g. second, third or fourth fines) were less likely to be paid. It is possible that those who were issued with multiple Covid FPNs were less able to pay higher-level penalties due to their financial circumstances, or were simply less willing to pay, which brings into question the legitimacy and fairness of incrementally large FPNs.
3 Linked police and courts data on Covid FPNs

3.1 Linkage between Police Scotland and SCTS data

This section examines the payment of Covid FPNs at an 'individual' level, using data on FPNs issued during the initial lockdown phase, between 27 March and 31 May 2020. This analysis was undertaken by linking administrative data on individual Covid FPNs issued by Police Scotland with data on Covid FPNs registered for payment by SCTS, matched by the unique ticket number of the FPN. The data linkage work was subject to formal data sharing agreements between the University of Edinburgh and SCTS, and Police Scotland, and was undertaken following ethical review and a Data Privacy Impact Assessment by the University of Edinburgh.

The data provided by Police Scotland and SCTS were de-identified (i.e. did not include any personal identifiers), shared via secure data transfer procedures, and stored under secure conditions on the University of Edinburgh servers. It is important to note that the data were shared for research purposes only (on the legal basis of legitimate interest under the GDPR); and at no time was information about individuals shared from Police Scotland to SCTS, or vice versa. Details of the variables provided by Police Scotland and SCTS are shown in Appendix 1.

Extensive analysis has already been conducted on where and when Covid FPNs were issued and the characteristics of the individuals who received them between March and May 2020 (see McVie 2020, 2021). However, the linked Police Scotland and SCTS data provides valuable new insights into both the characteristics of the FPNs that were most likely to be paid (e.g. when and where they were issued) and the profile of the recipients who were most likely to pay them (e.g. age, sex, ethnicity, etc). This allows us to address questions that could not be answered using the aggregate data published by the SCTS. It is also valuable from a rights-based perspective, as it allows us to assess whether payment outcomes varied according to some protected characteristics, under the Equality Act 2010.

The linked data on provides information on four types of outcome:

- **Paid**: All FPNs instruct payment to be made directly to SCTS. In the case of Covid-related FPNs, the Regulations stipulated that payment within 28 days of receipt would be eligible for a discount of fifty per cent of the ticket value (i.e., a first FPN of £60 would be reduced to £30), while payments submitted to SCTS after 28 days would be subject to the full payment.
- **Withdrawn**: FPNs can be withdrawn prior to payment at the request of Police Scotland. This would typically occur if there was a problem with the quality of the ticket (e.g. incorrect or missing information) or if a review of the incident suggested it was issued inappropriately.
- **Rejected**: If the recipient decides not to pay the FPN, it can be rejected by ticking a box on the ticket and returning it to SCTS within 28 days. In such cases, the SCTS would notify Police Scotland and a report may be submitted to the Procurator Fiscal who would review the circumstances and decide whether or not to pursue a court hearing.
- **Court Registered Fines (CRFs)**: Any FPNs that are not withdrawn, rejected, or paid to SCTS within a specific timeframe are converted to CRFs. As noted in Section 2, CRFs are registered for collection and enforcement by Fines Enforcement Officers (FEOs).

---

9 This analysis focuses on the first lockdown period only, as linked data could not be provided for later periods of the pandemic. This is a limitation as it does not allow for change over time in payment behaviours to be tested.

10 Due to the delays in processing tickets, information about whether or not tickets were paid within 28 days is not always reliable and so analysis of speed of payment is not included in this report.
Focusing on these four outcomes, the analysis examines the following characteristics:

- date, time and locus that the ticket was issued;
- demographic profile of ticket recipients (age, sex, ethnicity and country of birth);
- criminal history of ticket recipients;
- Scottish Index of Multiple Deprivation (based on home datazone of ticket recipients);
- police division in which FPNs were issued;
- And the number of FPNs issued to each individual.

Note that the payment outcomes data was up to date as of 30 September 2020, however, the SCTS was unable to provide information on the outcomes for CRFs (i.e. whether registered fines were subsequently paid in full or not). As such, the analysis presented in this section of the report reflects only a partial picture of payment. Nevertheless, the linked data provides information about some key characteristics of those who paid their fines quickly (that is, before the point of registration) which, as shown in Section 2.7, was a key point of difference between Covid and ASB fines during 2020/21.

3.2 Number of FPNs registered for payment by SCTS

There were 4,327 FPNs issued by Police Scotland under the Regulations between 27 March and 31 May 2020. Of these, 4,082 (94%) were matched to a ticket registered for payment by SCTS. The remaining 245 tickets could not be matched based on ticket numbers, which means that they were most likely rescinded prior to being reported to SCTS. A further 100 FPNs registered by SCTS were subsequently withdrawn by Police Scotland and payment was not pursued. This represents an overall rescinding rate of 8% of all Covid FPNs issued during the initial lockdown phase, which is far lower than that for some other UK police forces where it has been reported that up to 40% of Covid FPNs were rescinded.11 Section 4 provides further analysis on Covid FPNs that were rescinded or withdrawn by Police Scotland.

3.3 Outcomes for FPNs registered by SCTS

Of the 4,082 Covid FPNs registered by the end of May 2020, Figure 6 shows that just over a quarter (27%) of them had been paid, while the majority (69%) had been converted to Court Registered Fines by 30 September 2020. It is not known how many of these were ultimately paid because, as noted above, information on the outcome of CRFs was not provided by SCTS. Based on the findings presented in Section 2, however, it is likely that many payments were delayed and a much higher proportion of these fines were repaid in the longer term.

A small proportion of Covid FPNs (3%) were withdrawn by Police Scotland after being reported to the SCTS, most likely because they were found to have been issued in error; while an even smaller proportion (less than 1%) was rejected by the recipient. The fact that so few people chose to dispute their FPN for breaching the Regulations offers some reassurance about the level of public acceptance of the Regulations. Alternatively, it may be that few people wanted the hassle of rejecting the fine and/or taking the risk of appearing in court and, potentially, receiving a higher fine or a more severe penalty.

For comparative purposes, Figure 5 shows the outcomes for the 1,450 ASB FPNs registered by SCTS during the same period. It shows that 25% of fines issued for anti-social behaviour had been paid, which is slightly (albeit significantly) lower than the proportion for Covid FPNs.

ASB FPNs were less likely to be withdrawn by Police Scotland (less than 1% compared to 3% of Covid FPNs), which suggests that scrutiny was more likely to identify errors in the application of the Coronavirus Regulations than the existing anti-social behaviour legislation. However, less than one percent of ASB FPNs were rejected by the ticket recipient, which was identical to that for Covid FPNs. The fact that people were just as unlikely to reject both types of FPN suggests that the Regulations had achieved the same level of legitimacy as the existing anti-social behaviour legislation in the eyes of the public during this period.

Taking account of differences in payment, rejection and withdrawal, ASB FPNs were more likely to be converted into CRFs (74% compared to 69% for Covid FPNs). At the start of the pandemic, therefore, the likelihood of payment for Covid FPNs was only slightly higher than for those issued in relation to anti-social behaviour; however, the analysis over the longer term (as shown in Section 2) suggests that this difference continued to grow over time.

![Pie charts showing initial outcome of COVID FPNs and ASB FPNs](image)

**Figure 5:** Initial outcome of Covid FPNs (n=4,082) and ASB FPNs (n=1,450) registered by SCTS between March and May 2020, as at 30th September 2020

Source: Linked Police Scotland and SCTS dataset

### 3.4 Outcome of Covid FPNs by demographic profile of the recipient

This section of the report focuses on the payment outcome of FPNs based on the personal characteristics of the individuals who received them. To prevent drawing misleading conclusions from the data, there are two important points to note here. Firstly, the analysis is based on FPNs and not people; therefore, where one individual was issued with more than one fine, they will be counted more than once in the data. For that reason, it cannot be inferred that people in group A were more or less likely to pay fines than people in group B, as this could be skewed by the characteristics of those who received multiple fines. Therefore, all analysis is presented in terms of the percentage of fines issued to people within each group that were paid.

Secondly, the primary focus of this analysis is the ‘relative’ likelihood that one group paid their fines compared to another group, rather than the ‘absolute’ number of FPNs paid by one group.
compared to another. Some information is provided on the absolute number of FPNs issued to each group in this section; however, more detailed information on the demographic and geographic profile of FPNs can be found in the data reports by McVie (2021) and McVie and Matthews (2021).

### 3.4.1 Analysis by sex

The majority (78%) of Covid FPNs registered by SCTS during this period were issued to males; however, Table 2 shows that there was no significant difference in the proportion of Covid FPNs paid by male (27%) and female (26%) recipients. There was also no significant sex difference in the proportion of tickets that were rejected by the recipient or converted to a CRF.

There was a statistically significant difference in the proportion of FPNs that were withdrawn by Police Scotland. While the actual proportions (and numbers) involved are very small, fines issued to women were twice as likely to be withdrawn on the basis that they had been issued in error than those issued to men (4% and 2%, respectively). This is discussed in more detail in Section 4.

Table 2: SCTS outcome of FPNs by sex of recipient

<table>
<thead>
<tr>
<th>Outcome of FPN</th>
<th>Female</th>
<th>Male</th>
</tr>
</thead>
<tbody>
<tr>
<td>Paid</td>
<td>26%</td>
<td>27%</td>
</tr>
<tr>
<td>Court Registered Fine</td>
<td>69%</td>
<td>70%</td>
</tr>
<tr>
<td>Withdrawn</td>
<td>4%</td>
<td>2% ***</td>
</tr>
<tr>
<td>Rejected</td>
<td>1%</td>
<td>1%</td>
</tr>
<tr>
<td><strong>Total Number</strong></td>
<td>914</td>
<td>3,154</td>
</tr>
</tbody>
</table>

*** Denotes statistically significant difference at p<0.001. Columns may not total 100% due to rounding.

Source: Linked Police Scotland and SCTS dataset

### 3.4.2 Analysis by Age

Around half (54%) of Covid FPNs registered by SCTS during this period were issued to people aged 30 or under, with a fifth (21%) being issued to those aged between 16 and 20. By contrast, only 2% of FPNs were issued to people over the age of 60. (For further information on the age profile of FPN recipients, see section 4.1 of McVie 2021). Figure 6 shows that payment outcomes varied considerably by age of the recipient, with a greater likelihood of payment amongst those at the lowest and highest ends of the age distribution.

Covid FPNs issued to people aged over 60 were most likely be paid (45%), although it is important to note that this reflects a very small number of FPNs overall (n=29). Next most likely to be paid were FPNs issued to people aged 18 to 20 (41%) and those aged 16 to 17 (36%). It is striking that FPNs issued to younger people were more likely to be paid than those issued to people of other ages, although this could reflect assistance with payment from parents. Covid FPNs offered to those aged 31 to 45 were least likely to result in payment: less than one in five of all tickets offered to people in this age band were paid.

While there appears to be a differential pattern of payment for Covid FPNs by age, it is important to recognise that this may relate to other factors, such as socio-demographic characteristics. For example, those issued with tickets at the oldest and youngest end of the age spectrum may have been more economically advantaged, compared to those in the middle age groups. This is explored in more detail in Section 3.9.
In cases where no payment was received by SCTS, the majority of Covid FPNs across all age groups had been converted to CRFs. The number of withdrawn or rejected Covid FPNs was small across all age groups and did not show any particular pattern.

### 3.4.3 Analysis by ethnic group

Where information about ethnic group was known, 93% (n=3,725) of Covid FPNs registered by SCTS were issued to White people (this includes people from White minority groups). Only 301 FPNs registered by SCTS involved people from other Ethnic minority groups (excluding White minorities). Although the number issued to White groups was far higher, prior analysis has shown that the per capita rate of issue was estimated to be slightly higher for Ethnic minority groups (8.7 per 10,000 of the Scottish population compared to 6.7 for White groups). (For further information on the ethnic profile of FPN recipients, see section 7.1 of McVie 2021).

Table 3 shows that FPNs issued to those from Ethnic minority groups were twice as likely to be paid as those issued to White recipients (50% and 25%, respectively). There were further differences when looking at specific ethnic groups. For example, Covid FPNs issued to people from Asian groups were most likely to be paid (59%), followed by those from Other, Mixed, or Multiple groups (45%). Tickets offered to those from African, Black, or Caribbean groups were only slightly more likely to be paid (29%) than those offered to White groups (25%).

### Table 3: SCTS outcome of FPNs by self-reported ethnicity of recipient

<table>
<thead>
<tr>
<th>Outcome of FPN</th>
<th>White groups</th>
<th>Ethnic minority groups</th>
</tr>
</thead>
<tbody>
<tr>
<td>Paid</td>
<td>25%</td>
<td>50%</td>
</tr>
<tr>
<td>Court Registered Fine</td>
<td>71%</td>
<td>48%</td>
</tr>
<tr>
<td>Withdrawn</td>
<td>3%</td>
<td>2%</td>
</tr>
<tr>
<td>Rejected</td>
<td>1%</td>
<td>&lt;1%</td>
</tr>
<tr>
<td><strong>Total Number</strong></td>
<td><strong>3,726</strong></td>
<td><strong>300</strong></td>
</tr>
</tbody>
</table>

*** denotes statistically significant difference at p<0.001. Columns may not total 100% due to rounding.

Source: Linked Police Scotland and SCTS dataset
As with the age profile of FPNs, it is not possible from this simple descriptive analysis to identify whether the variation in payment behaviour was a result of real differences between ethnic groups, or due to other factors that may have been more important in explaining payment. This is discussed in more detail in Section 3.9.

There was no significant difference in the likelihood of tickets being withdrawn or rejected based on ethnic group.

### 3.4.4 Analysis by country of birth

The vast majority (90%) of Covid FPNs registered by SCTS during this period were issued to people born in the UK, while 6% were issued to those born in other parts of the EU, and 4% to those born in other parts of the world. However, prior analysis has shown that the per capita rate of issue was higher for those born in other parts of the EU (7.6 per 10,000 of the Scottish population) compared to those born in the UK (6.1 per 10,000), or those born elsewhere in the world (5.2 per 10,000). (For further information on the nationality profile of FPN recipients, see section 8.1 of McVie 2021).

Table 4 shows that Covid FPNs issued to people born in the UK were far less likely to have been paid compared to those issued to people born in other countries. Only 23% of Covid FPNs offered to UK nationals were paid, which was significantly lower than the 43% of those offered to people born in the EU, and 52% of those born in the rest of the world. As a result, far more of the Covid FPNs issued to those born in the UK were converted to CRFs. The relative difference in payment levels between FPNs issued to those born in the EU and those born in other parts of the world was not significant.

There was no significant difference in the likelihood of tickets being withdrawn or rejected based on country of birth.

**Table 4: SCTS outcome of FPNs by country of birth of recipient**

<table>
<thead>
<tr>
<th>Outcome of FPN</th>
<th>UK born</th>
<th>EU born</th>
<th>Born in rest of world</th>
</tr>
</thead>
<tbody>
<tr>
<td>Paid</td>
<td>23%</td>
<td>43%</td>
<td>52%</td>
</tr>
<tr>
<td>Court Registered Fine</td>
<td>73%</td>
<td>54%</td>
<td>44%</td>
</tr>
<tr>
<td>Withdrawn</td>
<td>2%</td>
<td>2%</td>
<td>3%</td>
</tr>
<tr>
<td>Rejected</td>
<td>1%</td>
<td>1%</td>
<td>1%</td>
</tr>
<tr>
<td><strong>Total Number</strong></td>
<td>3,271</td>
<td>199</td>
<td>161</td>
</tr>
</tbody>
</table>

*** denotes statistically significant difference at p<0.001. Columns may not total 100% due to rounding.

*Source: Linked Police Scotland and SCTS dataset*

### 3.5 Outcome of Covid FPNs by recipient's criminal history

More than four out of five (82%) Covid FPNs registered by SCTS during this period were issued to individuals who were known to Police Scotland prior to the onset of the pandemic in 2020, with a quarter (25%) issued to people who first came to the attention of the police more than twenty years ago. (For further information on the criminal history of FPN recipients, see section 5.1 of McVie 2021).

Figure 7 shows that the likelihood of payment was highest (56%) amongst those who came to the attention of the police for the first time during 2020, most probably as a result of breaching the Coronavirus Regulations. Covid FPNs issued to those with a criminal history prior to 2020
were significantly less likely to be paid. This proportion decreased as the length of time since the individual was first known to the police increased. Amongst those who had first come to the attention of the police more than 20 years prior to the pandemic, only one in ten registered tickets (10%) were paid to SCTS, which was well below average.

When Covid FPNs were not paid, the majority were converted to CRFs and pursued for collection by FEOs. There was no greater likelihood of tickets being rejected or withdrawn on the basis of the recipient’s criminal history.

Figure 7: SCTS outcome of Covid FPNs by criminal history profile of recipient (n=3,003)
Source: Linked Police Scotland and SCTS dataset

3.6 Outcome of Covid FPNs by area deprivation

No information was available on the economic or employment circumstances of those issued with Covid FPNs, which means it is not possible to directly assess the extent to which payment was potentially linked to income or financial means. Instead, analysis was undertaken to determine whether initial payment outcomes were related to the level of deprivation in the recipient’s area of residence (based on home postcode), by linking data on home datazones to the Scottish Index of Multiple Deprivation (SIMD).\(^{12}\)

Around half (52%) of Covid FPNs registered by SCTS between March and May 2020 were issued to people living in the top SIMD quintile (i.e. the 20% most deprived communities of Scotland); while only 5% were issued to those living in the bottom SIMD quintile (i.e. the 20% least deprived communities). This represents a significant degree of inequality in the profile of FPN recipients during this period. (For further information on the SIMD profile of FPN recipients, see section 8.2 of McVie and Matthews 2021).

Figure 8 shows that, although more than half of Covid FPNs were issued to people living in the most deprived SIMD quintile, only 21% of these FPNs were paid, compared to 54% of those issued to people living in the least deprived quintile. This reflects a payment disparity rate of 2.6 between those living in Scotland’s most and least deprived communities. While still statistically

---

\(^{12}\) The SIMD is a tool for identifying concentrations of deprivation across Scotland. Each of Scotland’s 6,976 datazones (small areas of geography) are ranked from first (most deprived) to last (least deprived) based on 32 separate indicators that measure different aspects of deprivation (e.g. economic, health, education, employment, crime, etc). It is used for a wide range of purposes including as a statistical classification and as an indicator to target resources and policies. See www.simd.scot.

---
significant, there was far less difference in the proportion of FPNs paid by recipients living in quintile 1 compared to those in quintile 2 (27%), or quintile 3 (28%).

![Figure 8: SCTS outcome of Covid FPNs by SIMD Quintile based on recipient’s home address (n=3,828)](image)

Source: Linked Police Scotland and SCTS dataset

It is important to note that information about the recipient’s area of residence does not tell us about the level of deprivation at the locus where incidents occurred, nor where policing activity occurred during the pandemic. Moreover, it does not tell us that policing was unfairly or disproportionately targeted in such areas. However, the payment gradient in Figure 8 does tell us that those in receipt of FPNs during the first lockdown who were living in areas of more concentrated deprivation were either less inclined to pay, less able to afford, or found it more difficult to make a payment towards their fines than those living in more affluent communities.

There was no significant difference in the likelihood of tickets being withdrawn or rejected based on the SIMD profile of the recipient.

### 3.7 Outcome of Covid FPNs by issuing police division

Scotland has three policing Command Areas (East, North and West) and 13 police divisions, and there was considerable variation in the number of FPNs issued geographically. Two thirds (69%) of FPNs were issued by divisions in the West of Scotland, a fifth (20%) in the East, and only a tenth (11%) in the North. Within divisions, Greater Glasgow issued the largest number of FPNs (n=1,205, representing 30% of the total) while Dumfries and Galloway division issued the fewest (n=49, representing 1% of the total) – both of which are in the West Command Area. (For further information on the geographical profile of FPNs, see section 10 of McVie 2021).

Geographical differences in the number of FPNs issued does not necessarily mean there should be differences in payment rates; however, there was some variation across divisions. Covid FPNs issued in the East of Scotland were most likely to be paid overall (33%), while there was little difference in the proportion paid between those issued in the North (26%) or the West (25%). Looking at individual divisions, Figure 9 shows that Covid FPNs issued in Lanarkshire, Tayside and Fife were least likely to be paid during this time period, whereas those issued in Argyll & West Dunbartonshire, Forth Valley, and the Lothians and Scottish Borders were most likely to be paid.
Figure 9: SCTS outcome of Covid FPNs by police division of issue (n=4,082)

Source: Linked Police Scotland and SCTS dataset

It is not possible to ascertain the reason for these regional differences, although it could partly reflect the circumstances in which tickets were offered. As reported previously, the rate at which Covid FPNs were issued varied significantly by police division during the initial lockdown period (see section 10.1 of McVie 2021). In more remote and rural areas, many fines were issued to normally law abiding people who were travelling to beauty spots and scenic areas to take exercise. As such, FPNs offered in Argyll & West Dunbartonshire, Forth Valley, and the Lothians and Borders are likely to relate to this type of activity, with higher rates of payment in such instances variously reflecting a greater inclination to pay, based on the perceived legitimacy of the fine, and/or a greater ability to pay, due to the economic background of recipients.

There were some differences across divisions in the proportion of Covid FPNs withdrawn by Police Scotland (see Section 4) but no difference across divisions in the proportion of tickets rejected by recipients.

3.8 Outcome of Covid FPNs by number of tickets received

As noted earlier in this report, the incremental fine structure introduced by the Regulations allowed officers to issue up to four Covid FPNs with the value doubling each time. There are no other financial penalties in Scotland that accumulate a larger value each time they are issued.

This section of the report looks at the cumulative nature of Covid-FPNs issued during the initial stages of the pandemic and how the unique structure of these fines interacted with existing vulnerabilities or inequalities (for example, we know that Covid FPNs were more likely to be issued to people with prior criminal records and those living in areas of high deprivation).

During the initial lockdown phase, 78% of Covid FPNs were issued to people who received only one ticket, and 22% issued to those who received two or more (see section 3.1 of McVie 2021).
Put in terms of individuals (rather than tickets), 3,786 people received at least one FPN, of whom 409 (11%) received two or more.

Of the 3,786 individuals issued with one or more Covid FPNs, the majority (94%, n=3,548) had all of their tickets registered by SCTS. Only 5% (n=187) of individuals did not have any Covid FPN registered by SCTS, most (n=183) of whom only had one ticket issued to them. The remaining 1% of individuals (n=51) were issued with at least two Covid FPNs, of which at least one was registered by SCTS. This means that, between March and May 2020, a total of 3,599 individuals had at least one Covid FPN registered by SCTS.

3.8.1 SCTS outcomes for single and repeat FPN recipients

Previous research has shown distinct differences in the profile of those issued with one Covid FPN, compared to those issued with two or more, with the latter significantly more likely to have a prior criminal history with Police Scotland (see section 10.1 of McVie 2021). The analysis in this section examines whether SCTS outcomes also differed, based on the number of tickets received.

Of the 3,599 individuals with at least one registered Covid FPN, 405 (11%) had been issued with two or more tickets by Police Scotland (although, as noted above, not all of these tickets were registered with SCTS). Overall, three out of ten (30%) people paid at least one of their Covid FPNs. However, this varied significantly depending on how many fines they had received. Amongst those who received only one Covid FPN, 32% had paid; however, amongst those who received two or more Covid FPNs only 13% had paid at least one of their fines.

As a result, those who received more than one Covid FPN were significantly more likely to have had at least one of their fines converted to a CRF. Overall, 90% of multiple Covid fine recipients had at least one CRF, compared to only 65% of single fine recipients.

Repeat FPN recipients were significantly more likely to have at least one of their tickets withdrawn by Police Scotland, compared to those who received only one ticket (4% versus 2%, respectively). However, there was no significant difference in the likelihood of multiple recipients rejecting their tickets compared to single recipients (2% versus 1%, respectively).

In summary, individuals who received multiple Covid FPNs were less likely to make a payment to SCTS and more likely to have had tickets issued inappropriately in the opinion of Police Scotland. Given that prior research has shown that those who repeatedly breached the Regulations were often living in deprived areas and leading chaotic lifestyles (McVie 2021, HMICS 2020), the higher value of the subsequent tickets is likely to have created significant problems for these individuals. This raises concerns from both a human rights and an equalities perspective about the incremental financial penalty structure introduced through the Coronavirus Regulations.

3.9 Factors most strongly associated with payment

3.9.1 Regression modelling

The analysis presented so far has shown simple ‘unadjusted’ associations between different factors and the likelihood of individual fines being paid. However, this does not account for potential interrelationships between factors, whereby an observed relationship for one characteristic (e.g. age) may actually be explained by another characteristic (e.g. area deprivation). In addition, the previous analysis was based on payment of individual fines, and not payment by individual people (which may reflect slightly different patterns).
Regression modelling allows us to explore the ‘adjusted’ strength of the association between one specific factor and likelihood of payment because it enables us to control for the effect of other factors (by holding them constant at their average values). In addition, examining individuals rather than tickets also allows us to determine whether certain types of people were more or less likely to pay their fines. This allows us to explore which factors in this analysis were most strongly associated with people’s payment behaviour.

It is important to note that this modelling does not demonstrate any causal connection between the factors in the model and the likelihood of payment; it merely shows correlations and provides information about factors that were observed to be more or less strongly associated with payment behaviour than others. The results of the modelling are also limited by the variables included in the dataset, which are likely to be missing other important factors that could have influenced the likelihood of payment, such as employment status or income level. Nevertheless, based on the available data, it provides some useful information about factors available to Police Scotland that were more or less strongly associated with the pattern of payment of Covid FPNs.

The outcome of interest for the regression modelling is ‘payment of at least one Covid FPN’. The model examines the partial effect of individual characteristics (age, sex, ethnicity, and country of birth), whether the individual had a prior criminal history, the SIMD quintile for the most recent home address, and the number of Covid FPNs issued to the individual. The analysis was undertaken at the individual level (rather than ticket level), so as not to over-inflate the influence of those receiving multiple Covid FPNs. Division was not included in the model as some people had tickets issued in more than one Division; however, testing indicated that there was no difference in likelihood of payment across the three Police Scotland Command Areas.

Figure 10 summarises the results of the regression model, which are expressed in terms of Odds Ratios (ORs). An OR greater than one suggests that there was an increased likelihood of the FPN being paid for individuals with that particular characteristic, compared to the ‘reference category’. For example, males compared to females (the reference category). An OR of less than one suggests a lower likelihood of the FPN being paid for individuals with that particular characteristic compared to those in the reference category. An OR of one or close to one would suggest no difference in the likelihood of the FPN being paid for people with that particular characteristic and those in the reference category.

### 3.9.2 Results of the modelling

**Sex**

The unadjusted analysis (i.e. not taking account of other characteristics) suggested that Covid FPNs issued to men were equally likely to be paid than those issued to women (see Section 3.4.1). However, the regression modelling found that, when looking at individuals (not tickets) and taking other factors into account, men were significantly more likely to pay their fines than women. Figure 10 shows that, on average, the odds of a male FPN recipient paying their Covid fine were 1.5 times greater than a female recipient with the same characteristics.

**Age**

The unadjusted analysis suggested that Covid FPNs issued to people at both the oldest and

---

13 As all variables are tested simultaneously, the odds for any one factor are interpreted as being true when all the other variables in the model are held constant at their average values. Confidence intervals at the 95% level are included in the models to determine significant differences between the values of any one variable (e.g. differences between age groups). The choice of reference category does not skew the results of the analysis although it has implications for how the data should be interpreted.
youngest ends of the age spectrum were similarly likely to be paid, and that tickets issued to people in these age groups were more likely to be paid than those issued to people of other ages (see section 3.4.2). However, when accounting for other characteristics, the regression modelling showed that older people (aged 50 or over) were by far the most likely to pay their fines.

Figure 10 shows that those aged 50 or over had 2.4 times the odds of paying their Covid FPN, compared to those aged 31-50. Using different age groups as the reference category, the oldest age group were still twice as likely to pay as those in the two younger age groups.

However, the modelling also showed that, when taking other factors into account, there was no significant difference in the likelihood of payment between younger people and those in older age groups. This suggests that the higher payment levels observed earlier amongst younger FPN recipients was most likely explained by factors other than their age. For example, young people who were issued with Covid FPNs may have been more likely than those of other ages to be living in less deprived areas, which could suggest that they – or their parents - were more economically advantaged and, therefore, more able to pay their fines (see section 8.3 of McVie and Matthews 2021). This theory cannot be directly tested using these data, but it does suggest that non-age related factors may have been more important in determining payment at the younger end of the spectrum.
Ethnicity

In the unadjusted analysis, Covid FPNs issued to people from Ethnic minority groups were twice as likely to be paid as those issued to people from White groups (including White minorities), a difference that was statistically significant (see Section 3.4.3). However, regression modelling found that, while there was a slightly higher odds that Ethnic minority groups would pay, this difference was not significant at the individual level.

This suggests that the large gap in payment between people from White and Ethnic minority groups is not explained by their ethnicity. Rather, it is more likely to be a result of one or more of the other factors that were more strongly associated with payment, and which were more common to one ethnic group than the other. In other words, the modelling suggests that ethnicity alone made little or no difference to whether or not they paid their Covid FPN in Scotland.

Country of birth

The unadjusted analysis found significant differences in payment outcomes between FPNs issued to UK nationals and those born in other (non-EU) parts of the world (see Section 3.4.4). However, this difference was not significant in the regression analysis which, again, suggests that the observed differences in the unadjusted analysis relate to other factors captured by the regression model.

The regression analysis did, however, show that EU born FPN recipients had 1.6 times greater odds of paying their Covid FPN than those born in the UK. This could be indicative of a cultural difference in payment behaviour relating to country of origin, although it could also be the result of other factors not included in the model.

Prior criminal history

It was clear from the unadjusted analysis that likelihood of payment was significantly associated with whether someone had previously been known to the police (see Section 3.5). The regression modelling also found this to be the case.

Compared to those with a criminal history starting 20 or more years ago, those who first came to the attention of the police in 2020 (most likely as a result of the pandemic) had 9.4 times greater odds of paying their Covid FPN. Compared to the same reference group, the odds of payment were also greater for all other groups, ranging from 1.4 times greater odds for those with a criminal record starting 16-20 years ago, to 3.2 times for those with a criminal record starting 1-5 years ago.

The fact that we continue to find a strong relationship between length of criminal history and likelihood of payment, even after taking account of other factors, is indicative of a real lack of willingness and/or ability to pay Covid fines amongst those already known to the police for other matters, and especially for those who had potentially been known to the police over a long period of time.

Area deprivation

The unadjusted analysis showed a clear gradient in the likelihood of payment for FPNs issued to those living in the most deprived parts of Scotland to those living in the least deprived (see Section 3.6). Again, the regression model confirmed that such a gradient existed, even when accounting for other factors.

When taking account of the other factors in the model, those living in the 20% least deprived communities (quintile 5) had, on average, 2.5 times greater odds of paying their Covid FPN compared to those living in Scotland’s 20% most deprived communities. Those living in the most
deprived quintile were also significantly less likely to pay than those in the 2\textsuperscript{nd} and 4\textsuperscript{th} quintiles of the SIMD, although there was no significant difference to those living in the 3\textsuperscript{rd} quintile.

While we do not know the individual economic circumstances of recipients, these findings do suggest that the likelihood of payment was strongly associated with the level of economic and other hardship within the communities in which Covid FPN recipients were living.

**Multiple tickets**

Finally, the model examined the effect of receiving multiple Covid tickets on the likelihood of payment. This shows that even after accounting for other factors that may have had a bearing on payment, those who were issued with only one Covid FPN had, on average, 2.4 times greater odds of paying their fine compared to a similar person who received multiple fines.

This is in line with the findings from the unadjusted analysis (see Section 3.8) and strongly suggests that – regardless of their other characteristics - people who were issued with multiple Covid fines (with the financial penalty increasing incrementally each time) were significantly less likely to pay their fines.

### 3.10 Summary

This section of the report examined linked administrative data from the SCTS and Police Scotland on Covid FPNs issued between March and May 2020 (i.e. during the initial lockdown period). SCTS data provided information on four outcomes: ‘paid’; ‘withdrawn’ (by Police Scotland); ‘rejected’ (by the individual recipient); and converted to a ‘Court Registered Fine (CRF)’ (by SCTS). Linked police data was used to examine the socio-demographic and geographical profile of Covid FPNs across the four outcome categories.

The payment outcomes data were correct as at September 2020; however, the SCTS was not able to provide information on the long-term outcomes of CRFs in this cohort due to competing priorities, so the analysis of initial outcomes reflects only a partial picture of payment.

Police Scotland issued 4,327 Covid FPNs during this period, of which 94\% could be matched to a ticket registered for payment by SCTS. The remaining FPNs were either not present in the SCTS data or subsequently withdrawn by Police Scotland. Taking account of both cancelled and withdrawn tickets, 8.0\% of FPNs issued by the police during the during the initial lockdown phase were rescinded, which is far lower than for some other UK police forces.

Around a quarter of Covid FPNs registered by the SCTS between March and May 2020 were paid in full by September 2020, with most of the remaining fines converted to a CRF. Only one per cent of FPNs were rejected by the recipient, which indicates that few people objected strongly enough to dispute the reason for the ticket being issued.

While the overall payment profile for Covid and ASB FPNs registered during this period was very similar, Covid FPNs were slightly (but significantly) more likely to have been paid.

Looking at the characteristics of Covid FPN recipients, there were apparent differences in the likelihood of payment (although the absolute number of FPNs issued to some groups was very small). Using simple descriptive analysis, the following significant differences were found in relation to payment outcomes for Covid FPNs:

- A higher percentage of FPNs issued to people aged under 21 or over 60 were paid compared to those issued to people of other ages;
- A higher percentage of FPNs issued to people from Ethnic minorities (not including White minorities) were paid compared to those issued to people from White groups;
• A lower percentage of FPNs issued to those born in the UK were paid compared to FPNs issued to people born in the EU or another part of the world;
• FPNs issued to people who had a prior criminal history were far less likely to be paid than those issued to people who were not already known to Police Scotland;
• FPNs issued to people living in the least deprived communities were more than twice as likely to be paid as those issued to people living in the most deprived communities;
• FPNs issued in the Lothians and Scottish Borders, Forth Valley, and Argyll & West Dunbartonshire divisions (all covering large rural areas) were most likely to be paid, while those issued in Fife, Tayside and Lanarkshire divisions were least likely to be paid.
• People issued with only one FPN were 2.5 times more likely to pay than those who were issued with two or more.

More complex analysis using regression modelling, which examines relationships between variables while adjusting for other factors, found that the likelihood of fine non-payment was most concentrated amongst those who had a prior criminal history, those living in the Scotland’s most deprived communities, and those who were issued with multiple FPNs.

The modelling found also found that (when other factors were taken into account): men were more likely to pay their fines than women; younger people were no more likely to pay their fines than those of other ages; and there was no significant difference in the likelihood of payment between those from different ethnic backgrounds, which suggests that differences found in the descriptive analysis were actually explained by other factors.

Overall, the data presented in this section confirms that Covid FPNs issued during the first lockdown were slightly more likely to be paid than ASB FPNs and (based on the findings presented in section 2) it is likely that this payment gap increased over time. Nevertheless, there were distinct differences in the likelihood of payment amongst different groups of FPN recipients during this phase of the pandemic. The data modelling shows that non-payment was most concentrated amongst people who were living in the most deprived parts of Scotland, those who were already known to the police, and individuals who were fined for committing more than one breach of the Regulations. In other words, the introduction of financial penalties to control the spread of the Coronavirus appears to have been least effective for these groups. Moreover, the introduction of incrementally increasing fines for repeat offenders may have exacerbated existing inequalities, which raises concerns from both a human rights and an equalities perspective.
4 Rescinding of Covid FPNs

4.1 Response of Police Scotland to FPNs issued in error

The rapid introduction of the Regulations in March 2020 meant that Police Scotland was unable to roll out force-wide ‘trainer-led’ training in the use of the powers. During the early stages of lockdown, guidance about the new legislation was cascaded via emails and powerpoint slides, with supervisor briefings for some officers where physical distancing rules allowed; however, training relied mainly on self-briefing (HMICS 2020). Officers acknowledged the difficulty for Police Scotland in developing a proper training pack, but expressed concern about the ‘many grey areas in relation to what is law and what is guidance’ (HMICS 2020: 3) which created confusion about what was or wasn’t an offence.

To mitigate the problem of the legislation being applied incorrectly, procedures were put in place to ensure that all Covid-FPNs were reviewed by senior officers; and Scotland’s Chief Constable made it clear that tickets identified as having been issued in error would be rescinded:

“I think it is a fair observation to say at times people can mistake one for the other. In terms of the actual issue of the fixed penalties, I have absolutely no doubt in my own mind that given the demands on the police service, given the variance in human conduct that exists right across the whole of Scotland, there will have been times where a fixed penalty notice may have been issued, where in actual fact it would have been inappropriate to do so... But what I would say, and again we have had instances of this, is when it has been brought to our attention that, in actual fact, in all good faith, a fixed penalty notice has been issued in circumstances that were inappropriate, that fixed penalty notice has been withdrawn, we have apologised, spoken to the officers involved, spoken to the members of the public.”

Such teething problems, and the possibility of ‘good faith mistakes’, were not unexpected and constituted one of the key rationales for establishing the IAG which, as noted by the SPA, would:

“provide a forum for exchange of information and views between the police and public to deal with the sort of mistakes and misunderstandings – on the part of the public and the police - that are inevitable in a situation where significant new powers are introduced as a matter of urgency and without the opportunity for training, dissemination and communication which would be necessary in normal circumstances.”

Lack of published data on the rescinding of FPNs in Scotland make it impossible to compare practice during the pandemic with pre-pandemic times. Moreover, there are no published data on how many Covid FPNs were rescinded because of an error on the ticket (e.g. incorrect value of the fine) and how many were judged to have been issued mistakenly (e.g. on the basis of non-statutory government guidance rather than the Regulations). Indeed, it was raised as an issue of concern by officers that they were not given feedback by senior officers about the reasons for tickets being rescinded (HMICS 2020).

The linked SCTS and Police Scotland dataset (discussed in Section 3) provides a unique source of information about how many Covid FPNs were rescinded during the initial months of lockdown, and allows us to distinguish between those that were cancelled before they were reported to SCTS and those that were withdrawn after having been reported to SCTS. In addition to

---

14 Response to a question by Chris Musson during the Scottish Government Coronavirus Briefing on 8th May 2020.  https://twitter.com/scotgov/status/1258736275126915072
15 https://www.spa.police.uk/spa-media/o2gpcf73/draft-intro-28-4-20-1-1.pdf
examining the extent of rescinding by Police Scotland, these data also offer the opportunity to examine the characteristics of Covid FPNs that were subject to these measures.

4.2 Profile of rescinded Covid FPNs

As noted in Section 3.2, the linked dataset indicated that 8% of Covid FPNs issued by Police Scotland between March and May 2020 were either cancelled prior to registration by SCTS (n=245) or withdrawn after registration (n=100). This section examines whether there was any particular patterning to these tickets in respect of when, where, and to whom they were issued. In the interests of simplicity, all such FPNs are referred to here as ‘rescinded’.

Date, time of day, and location

There was a significant difference between rescinded and non-rescinded FPNs in relation to the date, time, and location of incidents. As might be expected, tickets were more likely to be rescinded during the earliest stages of the first lockdown period, as both police officers and members of the public were adjusting to the new Regulations.

Figure 11 shows the seven day rolling average number of tickets issued, and differentiates between those that were rescinded and those that were not. It is clear that rescinding was most common during the first few weeks of lockdown, peaking around mid-April when enforcement was at its highest rate. Thereafter, the number of FPNs issued declined steeply, but there was a far steeper decline in the number of rescinded tickets.

These different trends suggest that the extent to which officers were issuing FPNs incorrectly declined markedly within the first few weeks of lockdown. It is not possible from these data to say exactly why this was the case, but it is not unreasonable to suppose that it was due to a combination of increased familiarity with, and understanding of, the Coronavirus Regulations amongst both police officers and members of the public, and better instruction, guidance and messaging from senior officers who were monitoring tickets and overseeing policing practice.

Figure 11: 7 day rolling average number of rescinded (n=345) and non-rescinded (n=3,982) Covid FPNs issued

Source: Linked Police Scotland and SCTS dataset.
Covid FPNs issued during evening or night time hours (i.e. between 6pm and 6am) were slightly (but still significantly) more likely to be rescinded than those issued during daytime hours (9% versus 7%, respectively). It may have been the case that situations occurring during evening or night-time hours were more complex, and/or officers were busier during these periods, which necessitated quicker decision-making. Such situations might also have been influenced by location, such as whether the fine was issued in a private location or a public space. FPNs issued at indoor incidents (such as a private residence), which more commonly occurred during evening or night time hours, were more likely to be rescinded than those that were issued in public places, which more commonly happened during the day (12% and 8%, respectively).

**Police Command Areas and divisions**

There were some differences in the rescinding of Covid FPNs across Scotland’s Command Areas and the 13 police divisions. Divisions in the North Command Area rescinded a higher proportion (12%), compared to those in the West (8%) and the East (7%) Command Areas. Within the North Command Area, North East (15%) and Tayside (12%) divisions rescinded the highest proportion of tickets; although, Dumfries and Galloway division in the West of Scotland had the highest rescinding rate overall (19%). It should be noted, however, that the three divisions with the highest rescinding rate issued very few FPNs compared to other parts of Scotland, so the total number rescinded within these divisions was extremely small (see section 8.1 of McVie 2020). Generally speaking, there is no clear pattern to rescinding across police divisions and no suggestion of any systematic bias.

**Monetary value**

As indicated in section 3, there was a significant relationship between rescinding and the monetary value of Covid FPNs. While 8% of first or second tickets (with a value of £60 or £120) were rescinded, this increased to 13% of third or fourth tickets (with a value of £240 or £480). This suggests that senior officers may have identified proportionately more errors of judgement in the issuing of FPNs for repeated offences compared to first time tickets.

**Sex and age**

Covid FPNs issued to women were slightly more likely to be rescinded compared to those issued to men (10% versus 8%); and those issued to younger people aged 16-25 were more likely to be rescinded (10%) compared to those from older age groups. It is difficult to explain the findings in relation to men and women without further information about the circumstances of these cases. The greater rescinding tickets of issued to younger people may be related to the timing and locus of incidents (i.e. younger people are more likely to have been involved in breaches during the evening/night time and involving gatherings in indoor places). However, it could also be related to the controversy caused by the Coronavirus Regulations in Scotland which allowed FPNs to be issued to 16 and 17 year olds, a decision that was later overturned.16

**Other factors**

For the remaining factors analysed - ethnicity, country of birth, Scottish residency, criminal history, and area deprivation – no significant differences in the rate of rescinding were found.

---

16 The Coronavirus (No. 2) (Scotland) Act amended Regulation 9 of the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations Scotland 2020 to raise the minimum age to 18, coming into effect on 27th May. This was intended to bring it in line with the UN Convention on the Rights of the Child, Police Scotland’s ‘Policing Approach to Children and Young People 2016-2020’ and respond to calls by the UN to ensure children’s rights were safeguarded during the pandemic.
4.3 Summary

Very little is known about the process of rescinding FPNs in Scotland (or elsewhere in the UK). However, having processes in place to identify and rectify any errors in the use of the new policing powers was very important, especially given the speed with which the Regulations were introduced. The lack of direct training available to police officers, and the degree of confusion between statutory rules and government guidance undoubtedly led to (often good faith) errors in the applying the Regulations. However, the findings presented in this section of the report show that rescinding was most common during the initial few weeks of the pandemic, up until around mid-April 2020, and then declined very steeply therefore. It is clear, therefore, that after a bedding in period, during which both police officers and members of the public alike were getting used to the Regulations, the likelihood of FPNs being issued in error declined substantially.

There is some evidence to show that rescinding was more common for FPNs issued to certain types of people (such as younger people or women) and for incidents that occurred in certain types of circumstances (such as indoor incidents during the evening and night). There may well have been good reasons for greater susceptibility to error on the part of officers, especially in circumstances where breaches were more complex or involved many people (e.g. parties or larger gatherings) and in the case of younger people for whom the age threshold changed. However, the group most likely to have a ticket rescinded (based on the characteristics examined here) were those issued with multiple tickets. This highlights a key problem with introducing a set of Regulations that were designed to offer incrementally large fines for repeat offenders, especially when such individuals may have been more confused than most about what they could and couldn’t do.

Nevertheless, the number of rescinded Covid-FPNs represents a relatively small proportion of all fines issued during this phase of the pandemic, which suggests that the vast majority were considered to be in line with the Regulations. Moreover, the fact that tickets were being rescinded demonstrates that a process of monitoring was in place to identify and rectify such mistakes. This is important in terms of providing public reassurance in the police use of the new powers during this extraordinary time.
5 Conclusion

This is one of a series of data reports produced to inform the deliberations of the Independent Advisory Group (IAG) on Police Use of Temporary Powers related to the Coronavirus Crisis in Scotland. This report focussed on payment outcomes for Fixed Penalty Notices (FPNs) issued by Police Scotland under the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020 and how these compared to outcomes for FPNs issued for acts of antisocial behaviour.

Temporary powers enabled police officers in Scotland to issue up to five FPNs to individuals who were found to be in breach of the Regulations, although guidelines issued subsequently by the Lord Advocate limited this to a maximum of four. The value of the first FPN was set at £60; however, the value of each subsequent FPN doubled each time. Even though the value of Covid FPNs was discounted by half if paid within 28 days, the incrementally increasing fine structure allowed police officers in Scotland to issue much larger than usual monetary penalties.

It is important to bear in mind that FPNs issued in relation to the Coronavirus Regulations applied to behaviours that, under normal circumstances, would have been perfectly law abiding. Therefore, the analysis of payment outcomes contained in this report provides important information about the potential impact of these new financial penalties in extraordinary times. Payment outcomes offer a proxy measure of the perceived legitimacy of these new powers amongst members of the public, although it is important to point out that we cannot be certain how people really felt about receiving FPNs on the basis of these data alone. Nevertheless, the analysis presented here offers useful insights from the perspective of legitimacy and fairness, which are consistent with the IAG’s rights-based approach to scrutiny.

This report drew on both publicly available aggregate data from published SCTS Quarterly Fines Reports, and more sensitive individual level data provided by Police Scotland and SCTS under data sharing agreements. Bringing together data on the payment of FPNs from these different sources has provided a valuable overview of the temporal, spatial and demographic patterning of payment outcomes during the pandemic. It has enabled useful comparison of payment outcomes for Covid and ASB FPNs, which gives us some sense of the relative willingness and/or ability to pay amongst individuals receiving different types of fine. It has offered valuable insights into who paid their Covid FPNs and in what circumstances. Furthermore, it has provided unique insights into the rescinding of tickets that were issued in error by Police Scotland. While the data are not exhaustive (and can only provide a partial picture of payment, especially in relation to the individual-level data), some key themes are discussed below.

5.1 A substantial increase in the number of police FPNs

Against the backdrop of a gradual decline in police use of FPNs in Scotland over the last decade, there was a sharp increase in the number of FPNs registered by SCTS during 2020/21. Just over 23,000 police FPNs were registered for payment during the first 12 months of the pandemic, which represents a 2.4 fold increase compared to the previous year. This large increase was directly related to the introduction of the Coronavirus Regulations in March 2020, since the number of ASB FPNs registered in 2020/21 was lower than the previous year. This is not surprising given the tight restrictions placed on social gatherings and travel, which significantly reduced opportunities for other types of anti-social behaviour.

While full year data were not available for 2021/22, over 8,000 FPNs were issued during the first nine months. This represents a sharp reduction in the number of FPNs issued compared the
first year of the pandemic, albeit numbers were still considerably higher than for 2019/20. The decline in FPNs is almost certainly due to the loosening of restrictions and the waning use of enforcement by Police Scotland. Over the whole period from March 2020 to December 2021, seven in ten FPNs were related to Covid, which created a significant amount of additional administrative work for the SCTS.

5.2 A delayed, rather than diminished, pattern of payment

Looking at all fines registered for payment during 2020/21, the data published in the SCTS Quarterly Fines Reports are indicative of a delayed, rather than a diminished, pattern of payment. The proportion of police FPNs that were paid in full by the end of the second quarter of 2020/21 was around 20% lower than expected based on comparison with the previous year; however, by the end of the third quarter the gap had narrowed to around 10%, and by the end of the financial year it had narrowed again to only 3%. Moreover, the proportion of FPNs that were on track for payment in 2020/21 was three times higher than that for the previous year. The most recently published data indicate that, by April 2022, the level of payment for FPNs registered during 2020/21 had fully caught up with that for 2019/20, at 70%. Moreover, data available for 2021/22 show that payment patterns have returned to pre-pandemic levels.

The pattern of delay observed in the data most likely reflects the speed of change and the myriad challenges caused by the pandemic for Police Scotland and the SCTS in conducting their day-to-day business. Contingency arrangements took time to establish, and both Police Scotland and SCTS processes had to adapt to the fact that the new FPNs introduced through the Regulations were different to the existing ones (in terms of their monetary value, consequence of early payment, and incremental structure). Police Scotland had to revert to issuing paper tickets until electronic devices could be reconfigured, and new mechanisms for recording and reporting FPNs to SCTS had to be introduced. In addition, the restrictions during lockdown caused SCTS counter services to be suspended and debt recovery mechanisms to be adapted, which created substantial challenges for SCTS staff in receiving and processing fines, and FEOs in collecting and enforcing them. Moreover, the sharp rise in the number of FPNs issued by Police Scotland during 2020/21 placed a significant additional burden on SCTS.

Given all of these challenges, it is not surprising that delays in payment – especially during the early months of the pandemic – are reflected in the data. Nonetheless, based on the most published data, it looks likely that payment levels for 2020/21 and 2021/22 will ultimately meet, or even exceed, that of previous years. This suggests no long term impact of the pandemic on overall FPN payment rates.

5.3 Different outcomes for Covid and ASB FPNs

While the data for all FPNs suggest no long term change in payment rates, this conceals a significant difference between FPNs issued for breaching the Regulations and those issued for anti-social behaviour. Albeit fewer in number, only 58% of ASB FPNs registered between March 2020 and December 2021 were paid in full compared to 73% of Covid FPNs. Compared to previous years, this reflects a substantial reduction in the payment rate for FPNs issued for anti-social behaviour. It is problematic, however, to directly compare outcomes for ASB FPNs during the pandemic with previous years, as it is likely that the composition of who was being issued with fines was different. For example, those who received ASB FPNs during lockdown may well have reflected a only sub-sample of individuals who might have committed acts of anti-social behaviour under normal circumstances (i.e. because most people were staying at home and there were fewer opportunities to offend in public places). Lack of data on the profile of people who...
are typically subject to police fines makes it impossible to confirm that this was the case or say anything further about this group.

There are two stages of payment for FPNs: early payment after registration by SCTS; and later payment after conversion to a Court Registered Fine (or CRF). The data analysed in this report shows that Covid FPNs were more likely to be paid at both stages (although especially at the early payment stage), which suggests that these individuals may have been generally more willing and/or more able to pay than recipients of ASB FPNs. Differences in the fine amount and consequence of early payment may provide one potential explanation. The lower amount for a Covid fine was £30, compared to £40 for an ASB fine. In addition, Covid FPNs were subject to an 'early payment discount' which may have acted as a psychological nudge to encourage payment, in contrast to the threat of a late payment penalty in the case of ASB fines. The research evidence on incentivising payment of monetary sanctions is not conclusive; however, it is possible that this had some positive impact during the pandemic.

While the lower fine amount and an early incentive to pay might explain the higher likelihood of payment for Covid FPNs at the registration stage, they do not explain the higher rate of payment after conversion to a CRF (at which point both Covid and ASB FPNs would incur a penalty of £60). The fact that Covid CRFs were also more likely to be paid suggests that recipients may have had a different profile to ASB CRFs. For example, those who were subject to the Regulations may have included a higher proportion of people who were law abiding under normal circumstances and more complicit in general, therefore, more amenable to paying fines. This argument has some plausibility since research on police enforcement has shown a distinct shift in the socio-demographic profile of those who were breaching the rules as the pandemic wore on (McVie and Matthews 2021; HMICS 2021).

5.4 Public acceptability of the Covid FPNs

A key aim of this report was to use the SCTS data to provide some reassurance around the public acceptability of police use of the temporary policing powers. Using the proportion of FPNs that were paid in full as a proxy measure, the data provide no evidence that recipients were any less likely to accept the legitimacy of FPNs issued under the Coronavirus Regulations than those issued for reasons of anti-social behaviour. Quite the opposite in fact, although, this conclusion must be qualified since (as noted above) it is possible that the composition of those who received Covid FPNs may be distinctly different to those who received ASB FPNs (either during the pandemic or in previous years). Nevertheless, analysis of the individual level data showed that very few (only around 1 in 100) people rejected their FPNs during the first lockdown, and this was not significantly different for Covid and ASB fines.

While it is not possible to infer how people felt about the Regulations, the SCTS data do not suggest that the public objected any more strongly to paying Covid fines than ASB FPNs. This is in keeping with a high degree of acceptance that the temporary powers of enforcement during the first lockdown, and the circumstances in which police officers applied them during the pandemic, were necessary and fair. This was no doubt supported by Police Scotland’s adoption of the 4Es approach, which was aimed at ensuring that enforcement was reserved for those who were considered to be blatantly or flagrantly in breach of the Regulations. From a law enforcement point of view, fine payment patterns during the pandemic were, therefore, consistent with a model of policing by consent.
5.5 Legitimacy and fairness of the Regulations

This report does raise questions about the legitimacy and fairness of repeat Covid FPNs, particularly in terms of the incremental fining structure introduced through the Regulations. While a substantially higher proportion of Covid than ASB FPNs were paid in full, there was a far narrower gap in terms of the monetary value of fines repaid. The most likely explanation for this is that Covid FPNs of a higher value were less likely to have been paid than those of a lower value. In other words, people who were issued with two or more Covid FPNs were least likely to pay their fines (or less likely to pay fines with higher values). This was confirmed by the individual level analysis, which showed that one in three people who received a single Covid FPN paid it prior to discharge by SCTS, compared with only one in eight of those who had received two or more. Moreover, this difference did not disappear even when other characteristics of the individual (such as age, sex, area deprivation, and prior criminal history) were taken into consideration through regression modelling.

The fact that individuals who received more than one Covid FPN were less likely to pay their fines may not be entirely surprising, nor any different to the likelihood of non-payment amongst those who receive multiple ASB FPNs. Analysis of the linked police and court data showed that non-payment was also concentrated amongst those living in the most deprived parts of Scotland, and those who already had a criminal history, especially those who first had police contact many years previously. This is consistent with the testimony of police officers in Scotland, who reported challenges during the first lockdown in dealing with ‘some members of the public who were living chaotic lifestyles and seemed intent on non-compliance’ (HMICS 2020: 4). These observations suggest there may have been a normative element to the non-compliant behaviour of some individuals during the early stages of the pandemic, which inevitably resulted in repeated encounters with the police. Unfortunately, this suggests that the introduction of financial penalties to control the spread of the Coronavirus was far less effective for these groups and may simply have exacerbated existing vulnerabilities and inequalities.

Importantly, FPNs with a value of £240 or over were almost twice as likely to be rescinded by Police Scotland than those of a lower value. Regardless of any possible normative or lifestyle factors, this indicates that the use of FPNs for those seen to be repeatedly breaching the Regulations, when considered by senior officers, were more likely to be considered errors of judgement.

The fact that some individuals were issued with multiple Covid FPNs is understandable, given that the aim of the Coronavirus Regulations and the strengthened enforcement powers was to ‘reduce the spread of coronavirus, protect the NHS and save lives’ (UK Government 2020). However, the fact that each subsequent fine doubled in value raises questions about the legitimacy, fairness and effectiveness of this legislative provision. The consequences of receiving multiple, incrementally increasing fines for people who were least willing and/or able to comply with the Regulations, even in the context of a global health emergency, may have been particularly severe. For example, non-payment may well have resulted in arrest and possible prosecution for already disadvantaged and vulnerable individuals. There is compelling evidence that monetary sanctions impose additional burdens on already marginalised groups (Harris 2016). The fact that repeat offenders were by far the least likely to pay during the pandemic tells its own story about the unequal impact of the Regulations; and the extent to which issuing multiple FPNs had any tangible effect on reducing the spread of the coronavirus or saving lives is open to question.
These findings do not expose Police Scotland or SCTS to particular criticism, as both organisations were doing what was required of them based on the legislative framework introduced in the context of the public health crisis. However, they do raise concerns about the absence of any scrutiny or equality assessment surrounding the introduction of the Coronavirus Regulations, and the lack of any ongoing debate or evaluation of the potential impact of this new legislation on those most likely to be subject to it. There is no published information about the rationale for introducing an incremental structure of monetary penalties, nor any evidence on its likely effectiveness in Scotland.

On the decision to rely on FPNs to deal with breaches of the Coronavirus Regulations, the UK Government’s Minister for Crime, Policing and the Fire Service, Kit Malthouse MP, likened it to dealing with speeding, dog fouling and littering, and stated that it was based on a view of fixed penalties as a “known science” which would act as a “psychological game” to deter offending (House of Commons Justice Committee 2021: 17). Importantly, he explained that “While I understand that your Committee will naturally be concerned about the integrity of the system, I do not think that, as yet, we are able to point to anything unusual about covid FPNs that we do not see with other FPNs” (House of Commons Justice Committee 2021: 17). However, neither he nor the Committee made any mention of the incremental fining structure or the potentially disproportionate impact on repeat offenders. Moreover, there is no robust evidence to support or justify Mr Malthouse’s position on the use of the fine, and no indication that an equalities impact assessment was ever undertaken as part of the decision making process. Given the much larger fines that were issued in England (starting at £200 and increasing to a maximum of £6,400 for standard Covid-FPNs, and rising to £10,000 for certain offences) this psychological game seems rather a risky and morally dubious one, which seriously brings into question the legitimacy and proportionality of the law.

5.6 Police checks and balances
At the outset of the pandemic it was recognised that FPNs could well be issued in error. This was one of the reasons for the establishment of the IAG by the Scottish Police Authority, and Scotland’s Chief Constable was quick to provide reassurance that tickets issued in error would be withdrawn. Data on the rescinding of monetary penalties are not routinely published anywhere in the UK, so there is no baseline of what a 'normal' level should look like. Nevertheless, by linking together police and courts data, this report revealed that around 1 in 12 Covid FPNs issued by Police Scotland during the initial lockdown phase of the pandemic was rescinded (i.e. cancelled or withdrawn), which is substantially lower than reports for some police forces in England and Wales.

Rescinding was most common during the first few weeks of the pandemic, when both police officers and members of the public were adjusting to the new Regulations. The speed at which the legislation was introduced, and the immediacy with which officers had to put it into practice, makes it highly likely that lack of officer training, experience and familiarity with the Regulations (as distinct from the guidelines) resulted in errors of judgement and good faith mistakes. Incidents involving certain types of people (including younger people, women and those who were in receipt of more than one ticket), and those occurring in certain types of circumstances (including late night incidents involving gatherings in private residences), were slightly more susceptible to error on the part of officers; although, the sharply declining trend in rescinding from mid-April 2020 onwards suggests that improvements in officer decision making were quickly achieved. More importantly, the fact that such errors were being rectified through rescinding provides reassurance that policing checks and balances were in operation; while the
small number of rescinded FPNs indicates that the vast majority were issued in line with the Regulations.

5.7 Benefits and limitations of the data

This report drew on SCTS data that were available in the public domain, as well as data shared under data sharing agreements with the express purpose of analysing the payment outcomes of those issued with Covid FPNs during the first phase of the pandemic. The linkage of police and courts data proved to be highly successful, and has offered a unique glimpse into payment patterns for police fines issued in Scotland. In terms of addressing the specific aims of the IAG, this was extremely valuable; however, there are no doubt many other justice-related research questions that could be addressed using a similar approach.

There are, of course, limitations to what could be achieved using these data. The publicly available data were published at an aggregate level and did not allow for more specific analysis (such as the payment outcomes of repeat Covid FPNs) to be conducted. Meanwhile, the individual level data were constrained by only covering the FPNs issued during the initial lockdown phase of the pandemic and not allowing follow-up of payment outcomes. This early snapshot of payment outcomes may, therefore, not reflect longer-term trends or patterns as the pandemic progressed. Moreover, the Police Scotland dataset contained only a limited set of variables, which did not include some information that is likely to have impacted on either behaviour or payment behaviour (such as measures of vulnerability and financial stability). Nevertheless, the inclusion of key protected characteristics has supported the work of the IAG in taking a rights based approach to scrutiny of the impact of the new powers.
Appendix 1

Variables shared for each FPN by Police Scotland:

- Unique Ticket Number (for matching purposes)
- Unique Nominal identifier (for repeat ticket analysis)
- Age of recipient (in years)
- Sex of recipient (male or female)
- Ethnic group of recipient (based on Census categories)
- Country of birth of recipient
- Year that the recipient was first recorded on the criminal history system
- Date of issue
- Time of issue
- Place of issue (e.g. street name, park)
- Issuing Division
- Fine amount
- Locus type (indoor or outdoor)
- Home datazone of recipient
- Whether recipient was resident in Scotland
- Whether recipient was issued FPN in home division

Variables shared for each FPN by SCTS:

- Unique Ticket number (for matching)
- Unique reference number
- Sex of recipient (male or female)
- Age of recipient (in years)
- Date of issue
- Time of issue
- Issuing Division
- Fine amount
- Penalty outcome (paid, registered, rejected or withdrawn)
- Payment within 28 days (yes or no)
- Date of payment
- Amount paid
- Balance to be paid
- Adjustments
- Arrears
References


