

CPS announces review findings for first 200 cases under coronavirus laws

Prosecutors have reviewed more than 200 finalised cases under the coronavirus legislation up to the end of April, with any incorrect charges withdrawn and overturned.

The CPS has committed to reviewing all prosecutions brought under the Coronavirus Act and Health Protection Regulations to make sure the new laws are being applied consistently and appropriately.

The vast majority of prosecutions under the Regulations - 175 out of 187 - were charged correctly. Seven cases were discontinued in court on the day of the defendant's appearance and five convictions were returned to be re-opened and withdrawn.

Errors usually involved Welsh regulations being applied in England or vice versa.

All 44 cases under the Act were found to have been incorrectly charged because there was no evidence they covered potentially infectious people, which is what this law is intended for.

Number of cases finalised (March & April)	Number incorrectly charged	
Health Protection Regulations: 187 cases	Withdrawn	7
	Returned to Court	5
	Total	12
Coronavirus Act: 44 cases	Withdrawn	31
	Returned to Court	13
	Total	44

A total of 38 had been charged alongside substantive offences, including assaults on emergency workers, theft and burglary.

Thirty-one of the incorrect charges were stopped at the first court hearing and 13 were returned to be re-listed and withdrawn. Eleven cases were substituted with Regulations offences instead.

Gregor McGill, CPS Director of Legal Services, said: "The coronavirus pandemic is the most serious public health emergency this country has faced in living memory and has resulted in the criminal justice system being given exceptional powers to help keep us all safe.

"The CPS and our police colleagues are committed to ensuring our use of these new powers strikes the correct balance between public safety and acting in the interests of justice.

"In such a fast-moving and unprecedented situation, it is important there are safeguards to assist police and prosecutors in applying these laws correctly.

“That is why senior lawyers within the CPS have been reviewing every prosecution brought under the Coronavirus Act and Regulations since they came into force. We will continue to do for as long as the situation continues.

“I am confident the measures we have put in place will enhance the consistency of charging decisions across the country and ensure a fair criminal justice response for all as we adjust to these challenging times.”

The CPS review covers all finalised cases where a prosecution has either been stopped or a guilty plea entered and accepted. In addition, the CPS has put in place an internal safeguard which means any charge under this legislation must be now reviewed by a supervising lawyer before being called on in court.

Martin Hewitt, National Police Chiefs' Council chair, said: "These were unprecedented circumstances in which officers were presented with new powers within days of them being announced. This has all been done at pace and everyone in the Criminal Justice System has had to deal with a new body of legislation, which has undoubtedly led to some confusion.

"We apologise for the mistakes but all parties have worked hard to manage this new legislation as effectively as they can and to keep the public safe.

"It is right that any errors have been quickly identified and are being corrected through the CPS's review process, and are also prevented by the additional safeguards now in place. Officers have received additional guidance on the correct use of legislation. We will of course continue to apply learning as we move forward through the current health emergency."

What is the difference between the Act and the Regulations?

Coronavirus Act 2020

The main criminal offence under the Coronavirus Act relates to potentially infectious persons who refuse to co-operate with the police or public health officers, when they are required to be screened for COVID-19.

No case of a potentially infectious person refusing to comply with a lawful instruction has yet been prosecuted.

Health Protection (Coronavirus) Regulations 2020

The legal test under the Regulations is whether someone has a reasonable excuse for being outside their home, which includes going to work, exercising or caring for the vulnerable.

Regulation 6 applies to a person found outside their house without a reasonable excuse. Regulation 7 applies to gatherings, for example a person mixing in a large group from outside their household.

Examples of cases found to have been correctly charged under the Regulations include:

- Travelling from Leicester to London for a party;
- Groups of young people in a park, drinking together, displaying anti-social behaviour, and returning once moved on;

- Refusing to stay at home despite being advised by the police on several occasions and subsequently being found wandering around the town centre;
- Friends driving around town for fun.

Notes to editors

- The CPS is manually reviewing all finalised prosecutions - ie, where guilty pleas have been entered or cases stopped - under coronavirus legislation in England and Wales on a weekly basis
- Our figures are based on internal CPS data, which only records the number of offences charged rather than individual defendants
- Of the cases reviewed, 228 were charged by the police and three were charged by the CPS
- Official criminal justice outcome statistics are kept by the Ministry of Justice.