

BIG BROTHER WATCH

Big Brother Watch Briefing for the House of Lords on:

- Health Protection (Coronavirus, Restrictions) (No. 2) (England) (Amendment) (No. 2) Regulations 2020;
- Health Protection (Coronavirus, Restrictions) (No. 2) (England) (Amendment) (No. 3) Regulations 2020;
- Health Protection (Coronavirus) (Restrictions on Holding of Gatherings and Amendment) (England) Regulations 2020;
- Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) Regulations 2020;
- Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) (Amendment) Regulations 2020;
- Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) (Amendment) (No. 2) Regulations 2020;
- Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place and on Public Transport) (England) (Amendment) Regulations 2020

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About Big Brother Watch

Big Brother Watch is a civil liberties and privacy campaigning organisation, fighting for a free future. We're determined to reclaim our privacy and defend freedoms at this time of enormous technological change.

We're a fiercely independent, non-partisan and non-profit group who work to roll back the surveillance state and protect rights in parliament, the media or the courts if we have to. We publish unique investigations and pursue powerful public campaigns. We work relentlessly to inform, amplify and empower the public voice so we can collectively reclaim our privacy, defend our civil liberties and protect freedoms for the future.

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INTRODUCTION

We welcome the opportunity to provide this briefing to the House of Lords ahead of the motions on multiple amendments to The Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020 and the motion on The Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) Regulations 2020 and its subsequent amendments, on 18th September 2020.

RECOMMENDATIONS

- **These Regulations should have been debated months ago. We urge parliamentarians to increase pressure on Government to respect the sovereignty of parliament and prevent the misuse of “urgency” to avoid democratic procedures in future.**
- **The Government must provide assurances that protesters of all kinds will not face criminalisation, rather than allowing protests to depend on the discretion of police.**
- **The UK Government, devolved administrations, transport providers and retailers must be proactive in publicising the exemptions to Regulations which require the wearing of face coverings to ensure enforcement is fair and non-discriminatory.**

Amendments to the Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020

The House will be debating three sets of amendments to the Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020. These are significant alterations to the national 'lockdown', allowing for the reopening of a swathe of businesses and altering the terms on which gatherings and protests may occur.

The Health Protection (Coronavirus, Restrictions) (No. 2) (England) (Amendment) (No. 2) Regulations 2020 allow for the reopening of indoor fitness studios, gyms, and pools.

The Health Protection (Coronavirus, Restrictions) (No. 2) (England) (Amendment) (No. 3) Regulations 2020 allow for the reopening of casinos, indoor skating rinks, indoor play areas, bowling alleys and conference halls.

The Health Protection (Coronavirus) (Restrictions on Holding of Gatherings and Amendment) (England) Regulations 2020 introduce £10,000 Fixed Penalty Notices for anyone organising a gathering of more than 30 people.¹ We are concerned about the chilling effect this will have on fundamental rights to freedom of expression and assembly – indeed, this has already been used against one protest organiser. On the other hand, we welcomed the Regulations' definition of "political body" which clarifies that an exemption applies to any person carrying out activities "to promote, or oppose, changes in any law applicable in the United Kingdom or elsewhere, or any policy of a governmental or public authority",² so long as a number of stringent conditions including police-approved risk assessments are met.

However, the debate is now so overdue that the Regulations have already been superseded. Not being debated is the amendment to the Health Protection Regulations enforced on 14th September, which introduces new restrictions on the size of gatherings, limiting groups to 6 (down from 30) with complicated and illogical exemptions.

Impact on freedom of expression and assembly

A major human rights issue arising from the current Regulations and the ongoing restriction on gatherings is that the right to protest is significantly curtailed.

Despite the new definition of a 'political body' introduced by the Health Protection (Coronavirus) (Restrictions on Holding of Gatherings and Amendment) (England) Regulations 2020, there have been significant barriers to groups holding protests.

¹ The Health Protection (Coronavirus) (Restrictions on Holding of Gatherings and Amendment) (England) Regulations 2020, Regulation 2(5)(a)

² The Health Protection (Coronavirus) (Restrictions on Holding of Gatherings and Amendment) (England) Regulations 2020, Regulation 7(a)

The requirement to carry out risk assessments means that groups have had to submit documents to police officers for approval. Police officers are not public health officials and are not qualified to make such significant decisions. The requirement for a risk assessment also means that spontaneous protests or demonstrations are prohibited.

Many protesters have faced restrictions, bans and even prosecutions under the Regulations, despite exemptions for political bodies on the restrictions on gatherings.

Case study

On 25th August, prior to the revision of the definition of 'political body' under the Health Protection (Coronavirus) (Restrictions on Holding of Gatherings and Amendment) (England) Regulations 2020, Ken Hinds, a black community activist, was threatened with arrest after contacting the Metropolitan Police regarding an anti-racism march he was planning. Police told Mr Hinds that he did not qualify as "a business, a charitable, benevolent or philanthropic institution, a public body, or a political body" and therefore "that you are encouraging anyone attending to commit an offence contrary to [Health Protection] regulations 5 and 8." Only after the threat of legal action did the Metropolitan Police relent and grant permission for the march to go ahead.

Despite the clarification provided by the amendment that came into law on 28th August, protesters continued to face difficulties, and even fines under the Regulations. The threat of a £10,000 for organising unsanctioned protests is an extreme and authoritarian approach to public health and chills freedom of assembly and expression, as people may be unwilling to risk organising a lawful protest due the vast potential fines.

Case study

A protest against the Coronavirus Act and the lockdown measures led to the arrest and £10,000 fine of its organiser Piers Corbyn on 29th August. Mr Corbyn told the Guardian that he and the other organisers had carried out the appropriate risk assessment and plans the challenge the fine in court. A week later, Mr Corbyn was fined another £10,000 for the same offence in Sheffield.

Case study

Trans Rights Collective UK was forced to cancel their planned protest, after the Metropolitan Police "informed [them] that there is a likelihood that [they], any participants, stewards and even BSL interpreters of the Trans Rights Protest will be arrested on 5th September." The group had previously received assurances from police that they would not face enforcement action and the reason for the sudden reversal was not explained.

Other groups, including Extinction Rebellion, Resist the Government, Move One Million, have also faced enforcement action, with the Metropolitan Police handing out twenty £10,000 fines to protest organisers.³ . In the conditions imposed by the Metropolitan

³ Twenty protest organisers face £10,000 fines following Extinction Rebellion demonstrations in central London – Imogen Braddick, Evening Standard, 5th September 2020: <https://www.standard.co.uk/news/uk/protest-organisers-fines-extinction-rebellion-protests-london-a4541081.html>

Police on Extinction Rebellion's protest action, it states "participating in any gathering of over 30 persons outdoors in an offence contrary to Regulation 7 [of the Regulations]," making no mention of the exemptions for political bodies.⁴

The right to protest is now contingent on police approval. Police decisions as to who can protest and under what terms appear to have been made in an arbitrary fashion.

In the most recent Parliamentary debate on the Regulations, many Peers asked for clarity on the status of the right to protest. Baroness Thornton asked:

"Another legitimate concern which the Minister has heard from several parts of the House is that this piece of legislation can be used to stop legitimate political activity. Can the Minister say whether the legislation has indeed been used to stop legitimate political protest, which this country prides itself on allowing to happen, even in its most bonkers forms?"⁵

Lord Bethell did not answer this or any of the numerous questions on where the right to protest currently stands under the Health Protection Regulations, citing a lack of time.⁶

Recommendation: The Government must provide assurances that protesters of all kinds will not face criminalisation, rather than allowing the right to protest to depend on the discretion of police forces.

Undervaluing democratic scrutiny

This debate is taking place weeks after these amendments were brought into law.

The Health Protection (Coronavirus, Restrictions) (No. 2) (England) (Amendment) (No. 2) Regulations 2020 came into force on 25th July, **almost 2 months ago**.

The Health Protection (Coronavirus, Restrictions) (No. 2) (England) (Amendment) (No. 3) Regulations 2020 came into force on 15th August, **almost 5 weeks ago**.

The Health Protection (Coronavirus) (Restrictions on Holding of Gatherings and Amendment) (England) Regulations 2020 came into force on 28th August, **3 weeks ago**.

These amendments contain significant alterations to the national lockdown, as well as the right to protest. As noted, this debate does not include the latest amendment to the

⁴ Conditions imposed on an assembly by Extinction Rebellion - 3 September 2020 – Metropolitan Police Service, 2nd September 2020: <http://news.met.police.uk/documents/conditions-imposed-on-an-assembly-by-extinction-rebellion-3-september-2020-99589>

⁵ HL Deb (3rd September 2020) vol. col. 485: [https://hansard.parliament.uk/lords/2020-09-03/debates/D50831B1-5527-4791-806C-7827C002DD89/HealthProtection\(CoronavirusRestrictions\)\(England\)\(No3\)Regulations2020](https://hansard.parliament.uk/lords/2020-09-03/debates/D50831B1-5527-4791-806C-7827C002DD89/HealthProtection(CoronavirusRestrictions)(England)(No3)Regulations2020)

⁶ HL Deb (3rd September 2020) vol. col. 485: [https://hansard.parliament.uk/lords/2020-09-03/debates/D50831B1-5527-4791-806C-7827C002DD89/HealthProtection\(CoronavirusRestrictions\)\(England\)\(No3\)Regulations2020](https://hansard.parliament.uk/lords/2020-09-03/debates/D50831B1-5527-4791-806C-7827C002DD89/HealthProtection(CoronavirusRestrictions)(England)(No3)Regulations2020)

Regulations introducing the “Rule of Six”: the Health Protection (Coronavirus, Restrictions) (No. 2) (England) (Amendment) (No. 4) Regulations 2020.

The last debate in the House of Lords relating to the (prior) Health Protection Regulations was on 24th July, where parliamentarians expressed their frustration at the obstructively slow pace at which the Regulations were being presented for debate. At that point, the superseding Regulations being discussed in this debate had been in force for a week already – but were not scrutinised.

On 3rd September, Peers debated the Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020 – however these Regulations contain powers for local authorities and do not relate to the status of the national lockdown measures.

Prior to the debate on 24th July debate, the House of Lords had been given only two other opportunities to debate the swathes of significant Health Protection (“lockdown”) Regulations and their subsequent amendments: on 12th May and 15th June. The scheduling of these debates has meant that these highly restrictive new laws were retrospectively accepted, despite them being either being so widely exercised or indeed superseded as to render the approval pointless. As Baroness Jolly pointed out, “We are in strange times, but we do live in a parliamentary democracy, and that should not mean that we have to accept a loss of parliamentary oversight.”⁷

It remains the case that the various iterations of the “lockdown” have never been in place with full parliamentary approval.

Not only has Parliament not been engaged in scrutinising these new laws, but also members of the public and police forces have been given little chance to see and understand new laws they will be subject to. The Health Protection (Coronavirus, Restrictions) (No. 2) (England) (Amendment) (No. 2) Regulations 2020 were laid two days before they were to come into force, and The Health Protection (Coronavirus) (Restrictions on Holding of Gatherings and Amendment) (England) Regulations 2020 were laid the day before they came into force.

The Health Protection (Coronavirus, Restrictions) (No. 2) (England) (Amendment) (No. 3) Regulations 2020, permitting the reopening of various leisure venues, were also laid the day before they were due to come into force. This amendment was initially scheduled to come into law two weeks previously, but was delayed due to an increase in the rate of coronavirus infections.⁸ Given the Government had an additional two weeks to publish

⁷ HL Deb (24th June 2020) vol. 804, col. 2478: [https://hansard.parliament.uk/lords/2020-07-24/debates/3BAA97BA-06CC-45DC-972E-6C95FA1AFDD4/HealthProtection\(CoronavirusRestrictions\)\(No2\)\(England\)Regulations2020](https://hansard.parliament.uk/lords/2020-07-24/debates/3BAA97BA-06CC-45DC-972E-6C95FA1AFDD4/HealthProtection(CoronavirusRestrictions)(No2)(England)Regulations2020)

⁸ Coronavirus: Boris Johnson postpones lockdown easing in England – BBC News, 31st July 2020: <https://www.bbc.co.uk/news/uk-53609467>

and debate the new amendment, it seems even more farcical that 'urgency' was used as an excuse to circumvent scrutiny.

As has been the case with the original Regulations and every subsequent amendment, Parliamentary scrutiny has been delayed and devalued. Despite repeated insistence from Government ministers that this will not become routine practice, it has become precisely that: these Regulations are being debated in the House of Lords two months after they were made, with no sign of any debate scheduled in the Commons. Debating earlier Health Protection Regulations, Baroness Jenny Jones said of the delay:

"The Minister at the start used words such as 'exceptional' and said that it would not be an inappropriate precedent. That is complete nonsense, because it is already a precedent. (The Government) have evaded timely parliamentary scrutiny on every occasion (...) This makes a mockery of the term 'democratic process.'"⁹

As the lockdown restrictions ease in line with the Government's previously published roadmap, it becomes increasingly unjustifiable to bypass parliamentary scrutiny by claiming that the situation is too 'urgent' to be debated. As Liberal Democrat peer Lord Scriven said in an earlier lockdown debate:

"My Lords, this debate is nothing more than a charade—a mere illusion of scrutiny and accountability of government. (...) It stretches matters too far to say that these changes have to be introduced as a matter of urgency. They were not issues that crept upon the Government within a few days. These executive orders, decided behind closed Whitehall doors, have serious implications for citizens' movements and freedoms. This has to stop. It makes a mockery of Parliament and our civil liberties, and is a power grab by Ministers trying to avoid in-depth parliamentary scrutiny."¹⁰

Recommendation: These Regulations should have been debated months ago. We urge parliamentarians to increase pressure on Government to respect the sovereignty of parliament and prevent the misuse of "urgency" to avoid democratic procedures in future.

⁹ HL Deb (15th June 2020) vol. 803, col. 2013-4: [https://hansard.parliament.uk/lords/2020-06-15/debates/852C6EE6-D006-4059-905B-8BAEE20975FB/HealthProtection\(CoronavirusRestrictions\)\(England\)\(Amendment\)\(No2\)Regulations2020](https://hansard.parliament.uk/lords/2020-06-15/debates/852C6EE6-D006-4059-905B-8BAEE20975FB/HealthProtection(CoronavirusRestrictions)(England)(Amendment)(No2)Regulations2020)

¹⁰ HL Deb (15th June 2020) vol. 803, col. 2015: [https://hansard.parliament.uk/lords/2020-06-15/debates/852C6EE6-D006-4059-905B-8BAEE20975FB/HealthProtection\(CoronavirusRestrictions\)\(England\)\(Amendment\)\(No2\)Regulations2020](https://hansard.parliament.uk/lords/2020-06-15/debates/852C6EE6-D006-4059-905B-8BAEE20975FB/HealthProtection(CoronavirusRestrictions)(England)(Amendment)(No2)Regulations2020)

Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) Regulations 2020 and Amendments

On 24th July, the Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) Regulations 2020 came into force, requiring individuals to wear face coverings in shops, shopping centres, banks and post offices.¹¹

Similar exemptions to The Health Protection (Coronavirus, Wearing of Face Coverings on Public Transport) (England) Regulations 2020 apply: to children under the age of 11, employees of the relevant place, those providing services in the relevant place, an employee of an operator of a public transport service, or an emergency responder.¹²

There are also similar reasonable excuses for not wearing a face covering: if an individual cannot wear a mask due to any physical or mental illness, impairment, or disability; if it would cause "severe distress"; if an individual is accompanying, or providing assistance to, another person who relies on lip reading; to avoid injury or escape the risk of harm; or if it is reasonably necessary to eat, drink or to take medication.¹³ There are additional reasonable excuses: if it is required by an employee in order to verify a person's identity or to provide healthcare in a pharmacy.¹⁴

The Regulations can only be enforced by a 'relevant person' - a police officer, Transport for London officer, or person designated by the Health Secretary.¹⁵

The Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) (Amendment) Regulations 2020 increase the number of locations in which individuals are required to wear face coverings to include places of worship, public areas of hotels, concert halls, cinemas, museums, bingo halls and libraries.

The Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) (Amendment) (No. 2) Regulations 2020 add community and youth centres and casinos to the venues where face coverings should be worn.

The Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place and on Public Transport) (England) (Amendment) Regulations 2020 increase the maximum fine a person could receive for breaching the require to wear a face covering to £3,200.

¹¹ The Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) Regulations 2020, Schedule, Part 1

¹² Regulation 3(2)

¹³ Regulation 4(1)(a)-(f), (i)

¹⁴ Regulation 4(1)(g),(h)

¹⁵ Regulation 11

Undervaluing democratic scrutiny

These Regulations and the amendments have faced severe delays in receiving Parliamentary approval.

The Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) Regulations 2020 came into force on 24th July, **almost 8 weeks ago**.

The Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) (Amendment) Regulations 2020 came into force on 8th August, **approximately 6 weeks ago**.

The Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) (Amendment) (No. 2) Regulations 2020 came into force on 22nd August, **almost a month ago**.

The Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place and on Public Transport) (England) (Amendment) Regulations 2020 came into force on 28th August, **three weeks before** the scheduled debate on 18th September.

There has been no debate on these Regulations or their amendments in the House of Commons. Instead, the Regulations were passed 7 weeks after they came into force through a motion without debate. Sir Christopher Chope MP strongly objected to this approach:

“There are thousands—in fact, tens of thousands—of people who will be observing these proceedings and will have noticed that the Government have contrived to prevent this House of Commons from being able to have a substantive vote on some of the most repressive legislation we have ever seen in our democracy.”¹⁶

Confused implementation

It was announced that the Regulations would be introduced following several days of contradictory statements from Cabinet figures. On 12th July, Michael Gove told the BBC that face coverings in shops should not be mandatory,¹⁷ which was followed the next day by the Prime Minister’s announcement that the Government was “looking into” it and

¹⁶ HC Business without Debate, vol. 680, col. 279: <https://hansard.parliament.uk/commons/2020-09-15/debates/6E41A64A-D9DE-46E4-8CF3-4107925694F2/BusinessWithoutDebate>

¹⁷ Twitter, BBC Politics, 12th July 2020: <https://twitter.com/BBCPolitics/status/1282249763698638848?s=20>

Justice Secretary Robert Buckland's comment that face coverings in retail spaces could "perhaps" be made mandatory.¹⁸

Even the day before the Regulations were due to come into force there was confusion, after senior Ministers again contradicted each other over whether face masks would be required when ordering food or drink to take away. After it was clarified that individuals would be required to wear coverings if collecting food and leaving, chief executive of UK Hospitality Kate Nicholls said this contradicted previous Government advice to the industry and that it was "very late in the day" for alterations.¹⁹ Liberal Democrat health spokesperson Munira Wilson said:

"Clear communication is critical in a public health crisis. Instead, this confusion on guidance shows ministers simply could not organise a bun fight in a bakery.

"All this stinks of ministers making it up as they go along instead of listening to the experts."²⁰

The introduction of these new Regulations was beset with contradictory and confusing messaging from the Government. Timely parliamentary scrutiny would have gone a significant way to preventing this.

Enforcement

Senior police officers expressed surprise and dismay over the announcement of The Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) (Amendment) Regulations 2020. Martin Hewitt, chair of the National Police Chiefs' Council, said he was "unaware" that new laws surrounding the wearing of face coverings were due to be announced.²¹ John Apter, chair of the Police Federation of England and Wales, said police "simply don't have the resources, and this would fundamentally undermine the model of policing, which is to police by consent."²² Ken

¹⁸ The masked balls-up: Boris Johnson finally says people SHOULD wear face masks in shops and is poised to make them compulsory 'within days' after weeks of dithering and mixed messages from ministers – James Tapsfield, Daily Mail, 13th July 2020: <https://www.dailymail.co.uk/news/article-8516741/Boris-Johnson-Michael-Gove-clash-face-masks-shops.html>

¹⁹ Ministers urged to end face coverings 'confusion'- BBC News, 23rd June 2020: <https://www.bbc.co.uk/news/uk-53510631>

²⁰ Hospitality, retail industries and opposition MPs claim mixed messages on face covering rules – Alexander Bridge-Wilkinson, The Parliamentary Review, 24 th June 2020: <https://www.theparliamentaryreview.co.uk/news/hospitality-retail-industries-and-opposition-mps-call-for-clarity-on-face-covering-rules>

²¹ Police 'unaware' of government's face mask law announcement, leaders reveal – Lizzie Dearden, Independent, 14th July 2020: <https://www.independent.co.uk/news/uk/home-news/face-mask-law-england-police-coronavirus-boris-johnson-a9619001.html>

²² Ibid.

Marsh, leader of the Police Federation's London branch said the law would be "nigh on impossible for enforcement (...) We'll be driving around and around London looking for people who weren't wearing masks, it's absolutely absurd."²³

Some police forces have already stated they will not enforce the new Regulations. The leader of the Greater Manchester branch of the Police Federation said that expecting officers to enforce the Regulations was a "forlorn hope".²⁴ In Devon and Cornwall, the Police and Crime Commissioner said police were "not going to come to every phone call that someone is not wearing a mask."²⁵ Bedfordshire Police tweeted: "We are asking people to not call us to report people not wearing face coverings in shops, but instead to raise concerns to store staff or security personnel."²⁶

Worryingly, Metropolitan Police Commissioner Cressida Dick said she hoped that people would be "shamed" by other members of the public into wearing masks in retail spaces or into leaving the venue, making police interventions unnecessary.²⁷ Other police forces have asked members of the public to report venues where face coverings are not being worn.²⁸ To suggest public shaming and reporting as a method by which the Regulations should be enforced undermines the community spirit required in tackling the pandemic and puts those who are exempt from wearing face coverings at risk of discrimination.

Indeed, those who are exempt from wearing face coverings due to disabilities have faced harassment from both police officers and members of the public. Disability Rights UK has said it heard "horror stories" about those not wearing masks due to disabilities being reported to the police, as well as experiences of British Transport Police officers not allowing people to enter stations without a mask, even if they had a reasonable excuse not to wear one.²⁹ One respondent of a survey organised by the charity said: "Having

²³ Ibid .

²⁴ Police in Manchester say they are 'too busy' to enforce the new law on wearing masks in shops – John Scheerhout, Manchester Evening News, 14th July 2020: <https://www.manchestereveningnews.co.uk/news/greater-manchester-news/police-manchester-say-too-busy-18595672>

²⁵ How police will tackle face mask dodging as doctors fear impact of 'illogical' messaging - Joe Gammie, Richard Whitehouse and Jeremy Culley, Mirror, 20th July 2020: <https://www.mirror.co.uk/news/uk-news/how-police-tackle-face-mask-22382183>

²⁶ Twitter, Bedfordshire Police, 24th July 2020: <https://twitter.com/bedspolice/status/1286651309840576512?s=20>

²⁷ Twitter, LBC, 22nd July 2020: <https://twitter.com/LBC/status/1285846783302799361?s=20>

²⁸ Tell us online about people breaking mask rules, urge Lancashire police – David Nowell, Lancaster Guardian, 25th June 2020: <https://www.lancasterguardian.co.uk/health/coronavirus/tell-us-online-about-people-breaking-mask-rules-urge-lancashire-police-2924057>

²⁹ Face mask exemptions: People with disabilities should never face intimidation on public transport over rules, says Government - Serina Sandhu, iNews, 19th June 2020: <https://inews.co.uk/news/uk/face-mask-exemptions-people-public-transport-rules-coverings-government-450550>

both fines for not wearing a mask, and an unprovable exemption alongside each other is an impossible situation.”³⁰

Case study

Alarming footage was published of train passenger who said he was exempt from wearing a face covering being threatened, aggressively handled and pepper sprayed by a police officer in Liverpool. The passenger was asked by a officer from the British Transport Police to wear a mask, to which he responded that he was exempt due to a medical condition. The officer continues to insist the man wear a mask or leave the train, before moving to physically remove the passenger, sparking a violent tussle which resulted in the man being pepper sprayed and arrested.

The passenger had no legal obligation to wear a mask as those with medical conditions are exempt, and thus the officer had no legal authority to attempt to remove him from the vehicle.

RECOMMENDATION: The UK Government, devolved administrations, transport providers and retailers must be proactive in explaining the exemptions to Regulations which require the wearing of face coverings.

³⁰ Ibid.