



Angelina Nicolaou has a mixed practice across One Pump Court's Immigration, Inquest and Public Inquiries and Crime and Prison Law teams. For enquiries see onepumpcourt.co.uk

In this time of uncertainty and upheaval which has been brought about by the COVID-19 pandemic, it is incredibly important that there is clarity on the powers available to police officers under the new laws and regulations. Our Q&A, prepared by Angelina Nicolaou deals with some of the issues which have been arising in England since the coming into force of the Coronavirus Act 2020 (the Act), and the Health Protection (Coronavirus Restrictions)(England) Regulations 2020 (the Regulations).

Can the police arrest someone for leaving their house twice in one day?

If a constable has reasonable grounds for suspecting that an offence has been committed, they may arrest without a warrant anyone who they have reasonable grounds to suspect of being guilty of it. (Section 24(2) PACE)

However, it is not an offence to leave your house twice in a day. The guidance published on the government's website states that people should only leave the house: (i) to shop for basic necessities, (ii) medical needs, (iii) travelling for work (where you cannot work from home) or (iv) for one form of exercise a day. This is guidance. The reference to a limit to 'one' form of exercise a day is not found in the Regulations, which are legally binding and can be enforced.

Regulation 6(1) provides that no person may leave the place where they are living without 'reasonable excuse'. The relevant question is whether a person has reasonable excuse to leave their home, not whether it is their second outing of the day.

Within that assessment, what counts as a 'reasonable excuse' also depends on whether people have specific health conditions (including autism or learning disabilities). This may mean that they need to leave the house a few times a day.



Can the police arrest someone for trying to move house?

Regulation 7 of the Coronavirus Regulations sets out that there are restrictions of gatherings in a public place of more than two people, however **Regulation 7(d)(i)** sets out that one of the exceptions to this is “where reasonably necessary to facilitate a house move”. Regulation **6(2)(l)** provides that a ‘reasonable excuse’ for leaving home can include “to move house where reasonably necessary”.

Can the police search people’s shopping trolleys or bags?

There have been reports that some police forces have been contemplating searching shopping trolleys in order to determine whether people have been leaving the house to obtain basic necessities. These positions have since been retracted.

There is no legal power under the Coronavirus Act or the Regulations which enables a police officer to search a shopping trolley in order to determine if an individual has purchased essential items.

Can police officers stop anyone in public at random and make them account for why they are not at home?

The Joint Committee on Human Rights has highlighted that there is no express power in the Regulations that allows the police to stop and question someone who they do not reasonably suspect is committing an offence. The National Police Chief’s Council has recognised that there is no power to “stop and account”. The police can ask questions of the public under common law, but an individual would not be under a duty to provide answers.

However, in the ordinary way, if a police officer has reasonable grounds to suspect that a person has committed an offence by contravening the requirements under Regulation 6 (i.e. leaving their home without reasonable excuse), they can carry out an arrest. The guidance is clear that in the first instance an officer should encourage individuals to go home themselves before attempting more heavy handed methods of enforcement.

Also, Schedule 21 of the Coronavirus Act 2020 contains a power at paragraph 7 for police officers to remove a person to a place of screening and assessment if they have reasonable grounds to suspect that a person is potentially infectious.



Can the police arrest someone for spitting or coughing on other people?

There are no new offences under the Regulations relating to coughing on other people however a person who is suspected of having done this could be arrested for assault. The [Director of Public Prosecutions](#) has made this clear in response to a number of reports of incidents of this nature occurring against emergency workers.

An assault is any act by which a person intentionally or recklessly causes another to suffer or apprehend immediate unlawful violence. Even before the COVID pandemic, a person could be arrested for assault if they spat at someone.

Can the police enter a property in order to break up a party?

Under Regulation 7 the police have powers to direct individuals to return home if they are participating in gatherings in public spaces however the Regulations don't appear to allow for entry into a person's home in order to break up a gathering.

[Section 17 PACE](#) sets out a number of instances where police officers can enter a dwelling, however none of these provisions apply neatly to entering a house for the purposes of breaking up a gathering. The offences that are created under the regulations are 'summary' offences. The police would not have a power under **section 17(1)(b)** to enter someone's house to carry out an arrest as this provision applies to indictable offences.

A police officer doesn't have special licence to enter a property just because they suspect that there is something wrong, however they can enter if they can show that the occupier gave consent (including implied consent).

It has been reported that the [Police Federations have been seeking extra powers](#) to be able to enter private homes so the position may change in the future.

It is important to note however, that an individual attending a party at another person's home is unlikely to be found to have a 'reasonable excuse' for having left their home in accordance with **Regulation 6(1)**.