

'Corruption' in the times of COVID-19 in the UK

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Outline

COVID-19 policy framework in the UK

Policy in practice: case study

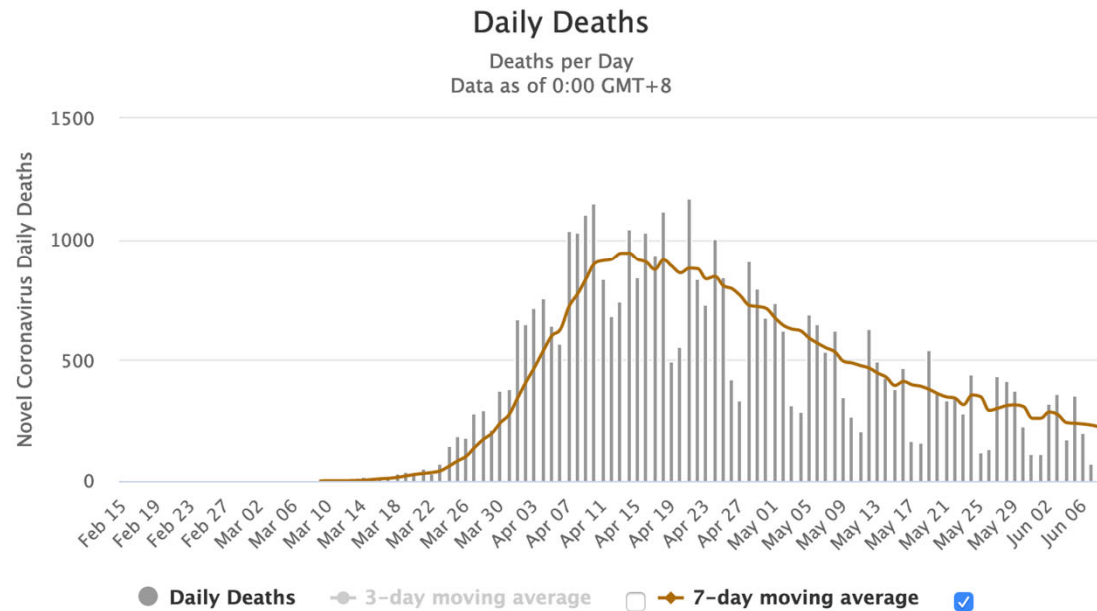
The appearance standard

Conclusion



Statistics of the UK COVID-19 evolution

Daily New Deaths in the United Kingdom



Source: https://commons.wikimedia.org/wiki/File:Daily_new_COVID-19_deaths_in_the_UK.png

Covid-19 in the UK: policy overview

The UK government policy response to COVID-19 had 5 parts: contain, delay, research, mitigate and as of May 11 'recovery strategy'. The last part included a new COVID-19 alert system and an illustration of how lockdown measures may be eased in the future.

Daily televised briefings were used to update the public on the government's approach, fronted by politicians and scientific and medical experts.

The government's assessment of the risk of COVID-19 to the UK was low until 30 January 2020.

From contain to delay

12 March: The PM announced new social distancing rules for people with COVID-19 symptoms in a live tv intervention saying that 'many more families are going to lose loved ones before their time'. On the same day, the government's risk assessment of COVID-19 moved from moderate to high.

16 March: The government announced stricter social distancing measures for all – asking the public to 'stop non-essential contact with others and to stop all unnecessary travel'. On the same day, a paper was published by Imperial College London researchers suggesting that there could be around 250,000 deaths in the UK if 'mitigation' policies to COVID-19 (focused on slowing but not necessarily stopping the spread of the disease) were pursued.

19 March: Emergency legislation – The Coronavirus Act 2020 – was introduced as a bill on 19 March 2020 and became law on 25 March, providing a range of temporary powers for government during the COVID-19 outbreak and response. The legislation will be in place for 2 years (and reviewed every 6 months).

18 March: The PM announced that schools would close from 20 March, except for children of key workers and vulnerable groups. Bars, restaurants, shops, and some other premises were told to close on 20 March. And measures were announced to shield and support 1.5 million of the most vulnerable people for at least 12 weeks on 22 March.

23 March: In a pre-recorded tv session, the Prime Minister announced stricter lockdown measures, instructing people to only leave their home for a small number of purposes, closing all non-essential shops, and stopping social gatherings.

Mitigate

At the end of April, the Prime Minister promised the public a ‘comprehensive plan’ for easing social distancing measures.

On 10 May, the Prime Minister used a televised message to describe ‘the shape of a plan’ to beat the virus and reopen society. This was followed by the publication of a new government ‘COVID-19 recovery strategy’ the following day, which outlined three steps to lifting lockdown restrictions. In step one – starting from 13 May – anyone who cannot work from home is actively encouraged to go back to work, and people will be allowed to take ‘unlimited’ outdoor exercise. Taking further steps, when restrictions can be eased further, will depend on a range of factors – including a new COVID-19 ‘alert system’ for ranking the country’s threat from COVID-19. The government’s message of ‘stay home’ also changed to ‘stay alert’.

The Prime Minister used the foreword of the government’s new strategy to ask the country to ‘be patient with a continued disruption to our normal way of life’. He warned that ‘a mass vaccine or treatment may be more than a year away’ – and that ‘in a worst-case scenario, we may never find a vaccine’. He also recognised that measures to control COVID-19 have ‘taken a heavy toll on society – in particular to the most vulnerable and disadvantaged’.

On 28 May, the Prime Minister announced that some lockdown measures would be eased further on 1 June. This included more shops reopening and some children returning to school, as well as allowing up to six people to meet outdoors. Several members of the government’s Scientific Advisory Group for Emergencies (SAGE) expressed their view publicly that it was too early for the government to ease lockdown measures. There have also been persistent questions about the timing of the government’s original lockdown in March.

Case study:
Dominic
Cumplings



Case description

Dominic Cummings is Boris Johnson's chief advisor since July 2018

Issue: he was filmed visiting his parents in Durham after being diagnosed with COVID-19

28 March: Mr Cummings says he woke up "in pain and clearly had Covid symptoms, including a bad headache and a serious fever".

Evening: Mr Cummings went on to explain - "That evening I returned home and discussed the situation with my wife. She was ill. She might have Covid although she did not have a cough or a fever." Mr Cummings said [many people he worked closely with, including the PM](#), had had symptoms or were absent with symptoms. He said: "I thought there was a distinct probability that I had already caught the disease."

Later: Mr Cummings drove up to Durham with his family, arriving "at roughly midnight". "I was worried that if my wife and I were both seriously ill, possibly hospitalised, there was nobody in London we could reasonably ask to look after our child and expose themselves to Covid."

"My wife had felt on the edge of being able to look after him safely a few hours earlier." Mr Cummings did not say that at the point the family drove north his wife was unable to look after their child.

30 March: A No 10 source confirmed Mr Cummings had developed symptoms of the virus and was self-isolating "at home".

Case description

1 April: Durham Constabulary speak to the father of Dominic Cummings who confirms that his son and family were present at the property.

2 April: During the night, Mr Cummings' four-year-old son "threw up and had a bad fever". Following medical advice, an ambulance took the child to hospital. He was accompanied by Mr Cummings' wife. Mr Cummings "could barely stand up".

3 April: After being taken to hospital, Mr Cummings' son woke up the next day having recovered. He was tested for coronavirus and his mother, who was with him at the hospital, was told "they should return home" (the test result arrived days later and was negative). According to Mr Cummings, there were no taxis so he "drove to the hospital, picked him up and returned home". He said he "did not leave the car or have any contact with anybody on this short trip". But according to his wife's later article in the Spectator Mr Cummings had a high fever and muscle spasms in his legs throughout this period.

6 April: At some point in the week leading up to this date, Mr Cummings discussed his decision to travel to Durham with the prime minister. "When we were both sick and in bed," he said, "I mentioned to him what I had done. Unsurprisingly given the condition we were in, neither of us remember the conversation in any detail."

4-11 April: Mr Cummings said "after I started to recover, one day in the second week, I tried to walk outside the house". He confirmed he, his wife and his son went for a walk into woods owned by his father and it was at this point he was seen by passers-by but his family "had no interaction with them". The exact date is not clear but his second week isolating in Durham would have been between these two dates.

Case description

11 April: Believing he had recovered by this date, albeit "feeling weak and exhausted", Mr Cummings said he "sought expert medical advice". "I explained our family's symptoms and all the timings and asked if it was safe to return to work on Monday or Tuesday, seek childcare and so on. I was told that it was safe and I could return to work."

12 April: Mr Cummings drives to Barnard Castle, about 25 miles from his parents' home in Durham, with his wife and child. He explained this episode as needing to test his driving was fine before making the long drive back to London. He said he'd been having problems with his vision.

13 April: Mr Cummings and his family travel back to London.

14 April: Mr Cummings is seen in Downing Street for the first time since 27 March. In his recent press conference Mr Cummings said he had written "about the possible threat from coronaviruses last year" but it transpired an [old blog was edited](#) on the evening of 14 April to add a short section on this.


19 April: Five days after being in London, The Observer and Mirror report that Mr Cummings is seen again in Durham by an unnamed witness. Mr Cummings says he did not return to Durham and that evidence on his phone proves this

Source: <https://www.bbc.com/news/uk-politics-52784290>

Dominic Cummings held a press conference at Downing Street on 25 May to describe his actions.

The Prime Minister and government ministers defended Cummings' actions – with the Prime Minister saying that Cummings 'acted responsibly, and legally, and with integrity'.

Some members of a scientific advisory group to government commented on Twitter that the Prime Minister – in supporting Dominic Cummings – had undermined the public trust needed for compliance with social distancing measures. The Prime Minister said, 'I do not believe that anybody in Number 10 has done anything to undermine our messaging'.



Law during COVID19 in the UK

[Stay at home: guidance for households with possible or confirmed coronavirus \(COVID-19\) infection](#)

- **Government advice for** households where one or more members have coronavirus symptoms. However, the main advice page says it is not always straightforward when children are involved. It says: "If you have children, keep following this advice to the best of your ability, however, we are aware that not all these measures will be possible."
- If Cummings believed his wife may have had coronavirus, the guidance was that ["all other household members who remain well must stay at home and not leave the house for 14 days"](#).
- Government page on [essential travel](#) stated that: "Essential travel does not include visits to second homes... whether for isolation purposes or holidays. People must remain in their primary residence."

In March and April, the North East Ambulance Service (NEAS) policy was to offer transport for patients leaving hospital with suspected Covid-19 but without a confirmed test result. A spokesperson for Durham and Darlington NHS Foundation Trust, which runs nine hospitals and two accident and emergency units in the area, told the BBC they "could arrange ambulance transport via North East Ambulance Service" in early April.


Durham Police said on 28 May that it did not consider that going to Durham had been an offence. The drive to Barnard Castle ["might have been a minor breach of the regulations that would have warranted police intervention"](#). It added that the offence was minor because there did not appear to have been any breach of the social distancing rules. The statement said that if an officer had stopped Mr Cummings on the way to Barnard Castle, they would have advised him to return to Durham. The constabulary said it would not be taking retrospective action against him because it would not do so against any other member of the public. However, the guidance was that people with symptoms that may be caused by coronavirus and who do not require hospital treatment were told they "must remain at home until they are well".

There was no mention in the statement of whether Mr Cummings was fit to drive given his concerns about his eyesight. → The [1988 Road Traffic Act](#) says: "If a person drives a motor vehicle on a road while his eyesight is such (whether through a defect which cannot be, or one which is not for the time being, sufficiently corrected) that he cannot comply with any requirement as to eyesight prescribed under this Part of this Act for the purposes of tests of competence to drive, he is guilty of an offence." The [Highway Code](#) says: "You MUST report to the Driver and Vehicle Licensing Agency (DVLA) any health condition likely to affect your driving."

Sir Peter Fahy, former chief constable of Manchester Police, said the drive to Barnard Castle was potentially a criminal offence. "It's not the way to test your eyesight and put, potentially, other people in danger." [On Twitter, John Apter, chair of the Police Federation for England and Wales](#), said: "If you're feeling unwell and your eyesight may be impaired do not drive your vehicle to test your ability to drive. It's not a wise move."

Michael Gove also referred to a reason that Mr Cummings did not during his press conference. "It was part of the National Police Chiefs Council (NPCC) guidance that you could drive at that time in order to take exercise as well."

In the NPCC guidance referred to by Mr Gove - which was publicised in mid-April - "driving for a prolonged period with only brief exercise" was deemed not likely to be reasonable. Mr Cummings and his family walked a few yards and sat by a riverbank for a few minutes.



The appearance standard

The appearance standard: inappropriate normative behavior understood as behavior that is disapproved by society in general or by codes of ethics in particular.

Standard of behaving ethically *and* appearing to behave ethically

One of the most important standard by which public officials are judged → serious implications regarding public's trust in institutions

Paradoxical norm – prohibits behaviour that in itself is not wrong

Some argue this is a contestable and controversial norm, as it is based entirely on the perception of the observer. → “For Luban ([2001](#), p. 26), the problem is that appearance is a “conceptual accordion that can expand as widely as suits the eyes of the beholder” while the beholder has not analyzed the observed behavior properly” (Kaptein, 2018).

The appearance standard

Driver (1992): appearing to behave unethically is morally unacceptable because: other people will be offended, there might be negative impact on their lives and the person setting a bad example breaks down the resistance to unethical behaviour for herself and others.
(consequentialist approach)

Hellman (2001): If an actor has a responsibility toward an observer, then the actor also has a moral obligation not to give the observer reasons to misinterpret his actions and distrust him. The standard becomes essential for public servants. Hence the actor should therefore “modify their behavior to accommodate the epistemic limitations of the relevant observers whose suspicions are reasonable (albeit mistaken), even if no harm is caused” (Kaptein 2018).(deontological approach)

Kaptein (2018): one should not only look at the behaviour but also at the actor’s character which is the object of virtue ethics. (integrity approach)

Conclusion

Did DC break the law? Or Did DC display the appearance of unethical behaviour during a public health crisis?

- DC definitely broke the policy recommendations of the office he worked for imposed during the COVID 19 crisis
- Even though he was supported and defended by the PM and his cabinet, the general impression was that he had behaved unethically
- It is challenging to assess the implications/echoes of his behaviour in the public space in the long run, but it is fair to say that the PM did not benefit from his behaviour
- The appearance of propriety is very important during 'normal times', but during a public health crisis it becomes essential as it can break the fragile trust in institutions that already struggle to manage the crisis

Bibliography

Driver, J. (1992). Caesar's wife: On the moral significance of appearing good. *The Journal of Philosophy*, **89**(7), 331–343.

Kaptein, M. The appearance standard: Criteria and remedies for when a mere appearance of unethical behavior is morally unacceptable. *Business Ethics: A Eur Rev.* 2019; 28: 99– 111.

Luban, D. (2001). Law's blindfold. In M. Davis & A. Stark (Eds.), *Conflict of interest in the professions* (pp. 23–48). Oxford: Oxford University Press.

Hellman, D. (2001). Judging by appearances: Professional ethics, expressive government, and the moral significance of how things seem. *Maryland Law Review*, **60**, 653–687.

Levin, R. M. (2001). Fighting the appearance of corruption. *Washington University Journal of Law & Policy*, **6**, 171–183.