



Home Office

Public Consultation on Specialist Printing Equipment and Materials Government Response

Background

The Home Office conducted an online public consultation from 4 March to 2 April 2013 on proposals to make it a criminal offence to supply specialist printing equipment and materials for use in criminal conduct. The Home Office had already held detailed discussions with the specialist printing industry and the police, both of which originally requested that we address this issue. In view of these previous discussions and the limited scope of these proposals, which only affect the specialist printing industry, we took the view that a four week consultation period was sufficient.

Publication

We publicised the consultation widely to all those industry contacts we were aware of, and the Minister for Criminal Information, Lord Taylor of Holbeach CBE, visited a specialist printing company, where an interview was recorded. We also issued a Written Ministerial Statement to both Houses of Parliament and a press notice. This resulted in coverage of the consultation in both *The Telegraph* and *The Metro* as well as in the specialist trade press such as *Professional Security Magazine*.

Respondents

The consultation received a total of **58 responses**, of which 46% of respondents owned a specialist printing company and a further 29% worked in the specialist printing industry. A further 7% of respondents had close connections to the industry, for example in the specialist press or being retired from the industry, making a total of 82% of respondents who were connected with the industry in some way.

Of those respondents who were from the industry:

- 48% represented micro businesses (10 or less employees);
- 33% represented small businesses (11-49 employees);
- 15% represented medium-sized businesses (50-249 employees); and
- 2% represented large businesses (250 employees or over).

Of these businesses, the proportion that reported having been victims of payment fraud were 32% of micro businesses, 60% of small businesses and 14% of medium-sized businesses.

The responses had a good geographical coverage and were received from Wales and from all 9 regions of England, with the sole exception of the North East.

Level of support

A total of 47 respondents (81%) expressed support for legislation to enact these proposals. Some respondents put the case for legislation that they were aware of some businesses in the industry being only interested in making sales, and not caring where the equipment would end up. On the proposal to require businesses to be able to show that they carried out checks to ensure their customers were legitimate, many commented that they already had such procedures in place, so introducing legislation to require this would make no difference to them and would even create a level playing field for those who do not carry out such checks. A total of 9% of respondents expressed opposition to the legislation, although only 4% were from the industry. 93% of respondents agreed or strongly agreed that legislation would act as a deterrent to those who seek to sell this equipment to fraudsters.

Concerns and Government response

Some concerns were expressed about how the legislation would be enforced.

Response - *The legislation would give the police powers to prosecute those who have knowingly supplied specialist equipment for use for criminal purposes, for which there is not currently a specific criminal offence.*

One respondent felt that these offences were already covered by the Fraud Act 2006.

Response – *The Fraud Act only applies if the equipment is designed or adapted for fraudulent use and is deliberately supplied to fraudsters. These proposals seek to extend this to include specialist printing equipment and materials, which are capable of being used for both legal and illegal purposes, and to create an offence that is targeted to deal with the issue of the supply of specialist equipment and materials for criminal purposes.*

One respondent made the point that legislation would be required internationally to prevent fraudsters going elsewhere to source equipment.

Response - *It is clearly impossible to close down all potential avenues of any form of fraud and these proposals just seek to make it as difficult as possible for criminals by making it harder to obtain such equipment in England and Wales. However, we are working with the devolved administrations in Scotland and Northern Ireland, and with the Crown Dependencies of Jersey, Guernsey and the Isle of Man, to keep them informed of these proposals so that they can consider whether to extend this legislation more widely. We are similarly working with our partners in the European Union and the G8 countries to promote these proposals at an international level.*

There were concerns that legitimate suppliers may be prosecuted for reckless supply despite carrying out checks, and that such legislation could result in over-compliance by companies.

Response – *The original proposal was that if a supplier could show that they did carry out certain checks, as set out in the legislation and accompanying statutory guidance, and had reported any suspicions to the police, that would be a defence to any prosecution, even if the equipment was subsequently used for illegal purposes, with the Courts considering each case on its merits. The offence of reckless supply will not be introduced at this stage.*

We then asked respondents to answer a series of questions on the detail of the proposals, including who the proposals would apply to and what reasonable steps would need to be undertaken to avoid prosecution for supplying equipment used in criminal conduct and the scale of the regulatory burden.

Costs

The introduction of an offence of recklessly supplying equipment for use in criminal purposes would have required businesses to maintain records of transactions, profile potential customers and train staff on any new procedures, for which we asked what the costs to businesses would be. We also asked about the estimated additional costs to businesses of a regime of self-regulation, as an alternative option to legislation, which would have required businesses to update their websites and brochures to promote the self-regulation regime.

Many respondents commented that they already carried out the proposed customer profiling checks as part of normal good business practice, and so a new legal requirement to carry out such checks would incur minimal, if any, costs to them. However, for those that did not already have such processes in place, there was no consensus on the level of costs that would be incurred, or clear agreement on which was the best option in terms of costs.

There was general consensus that legislation was needed to tackle the problem of the supply of specialist printing equipment and materials for criminal purposes, but there was also a sufficient level of concern that requiring them to be able to show they had carried out certain checks in order to avoid prosecution could lead to over-compliance and could therefore cause a burden

for some businesses. As this concern only related to the second proposed offence of recklessly supplying equipment, we have decided to pursue the legislative option, but not to proceed with the second offence at this stage.

Scope of legislative option

The consultation asked which counterfeit documents should specifically be covered by the legislation. The passport and driving licence had the highest support, with 96% and 92%, respectively, agreeing that these documents should be covered. The MOT certificate had the least support, with 68% of respondents supporting its inclusion. Those who thought it should not be included said this was because the MOT certificate was no longer used as a security document. We have therefore decided not to include the MOT certificate in the scope of the legislation.

The consultation asked what actions should be obligatory for specialist printing equipment suppliers. The results are shown in the table below.

	Yes	No	Don't know
Maintain and retain full records of all transactions	92.2%	2.0%	5.9%
Profile each new customer - verifying their information, for example checking their details with Companies House	69.8%	13.2%	17.0%
If there are any doubts as to the legitimacy of the customer or in their use of the equipment, do not supply it	94.2%	1.9%	3.8%
Report suspicious orders to the police	92.5%	1.9%	5.7%
Dispose of obsolete equipment responsibly and securely	82.7%	9.6%	7.7%

Profiling each new customer had the lowest level of support, mainly due to businesses being concerned that they would not know what was expected from them under this action. These requirements are not included in the final proposal. They will, however, inform advisory voluntary guidance which will be separately issued to advise businesses on steps they can take to protect themselves from becoming victims of payment fraud and reduce their risk of inadvertently supplying specialist equipment or materials for use in criminal conduct. The guidance will be available on www.gov.uk.

Reduced suspicious orders

40% of Project Genesis members responding reported that complying with the Project's Code of Conduct resulted in them receiving/processing fewer suspicious orders. There was no consensus reported as to the extent to which suspicious orders had fallen by. 38% reported that this did not result in them receiving/processing fewer suspicious orders, and 22% did not know.

Reduced sales

17% of respondents to the public consultation thought that the legislation would result in reduced sales, although there was no consensus as to the amount that this would equate to, but most thought it would be by a very small amount. 55% thought sales would stay the same as they were already carrying out checks on their customers. 9% thought sales would increase as businesses would spend less time following up fraudulent leads, and would therefore devote more time to leads more likely to result in legitimate sales. Taking into account the varying sizes of the companies and the variety of equipment sold in this industry, any reduction in sales is

likely to be negligible overall, and this should only relate to sales where the goods will be used for criminal purposes. Implementing legislation would further incentivise responsible behaviour by focusing business' attention on legitimate leads. Those who thought that they would lose sales related this to the customer profiling checks that would be required by the introduction of an offence of reckless supply. We therefore assume that the offence of knowingly supplying equipment for use in criminal conduct would be less likely to result in reduced sales, as in such cases the supplier would have knowingly colluded with criminals in making the supply.

Benefits

In the public consultation, 76% of respondents agreed or strongly agreed that legislation would result in businesses in the specialist printing equipment and materials industry being better able to spot potential fraudsters who approach them. This demonstrates that legislation would bring ongoing benefits both to businesses in the industry and to the UK as a whole, and highlights the importance of the advisory guidance to businesses. 89% agreed or strongly agreed that legislation would increase the likelihood of successful prosecutions of those who supply specialist printing equipment or materials for use for criminal purposes.

Based on data from the National Fraud Authority, we estimated that 3% of annual turnover is lost by businesses in the specialist printing equipment and materials industry through payment fraud. 59% of industry respondents to the public consultation did not know if this was an accurate estimate, 22% agreed with the estimate and 15% did not agree with the estimate. Based on these figures, we did not have sufficient evidence on which to base an alternative estimate. Of the respondents to the consultation, 72% agreed or strongly agreed that legislation would result in businesses in the industry being less likely to become victims of payment fraud. Again, the advisory voluntary guidance to businesses will help to maximise this benefit.

The consultation asked if businesses had previously been victims of payment fraud. 61% of Genesisius members reported being the victims of payment fraud only before becoming members. This may suggest that adopting the voluntary Code of Conduct through Project Genesisius enabled these businesses to better protect themselves and avoid becoming the victims of fraudulent transactions again. However, 11% of Project Genesisius members reported being the victims of payment fraud only after joining Genesisius, and 28% both before and after joining the Project, which suggests that Project Genesisius alone is not sufficient to fully tackle the problem.

Respondents were asked whether there were further benefits that the proposed legislation could result in that were not already covered in the impact assessment. 21% reported further benefits, including: the ability to supply equipment to bona fide organisations, rooting out illegitimate businesses, and improving the credibility of the industry and of individual businesses.

Document scanners

Respondents were asked whether the legislation should also cover specialist document scanner equipment which is used to verify official documents. 70% agreed or strongly agreed that it should, while 23% neither agreed nor disagreed and 8% disagreed. However, the response rate from businesses representing the document scanner industry was very low, and many of the respondents said they did not know enough about the equipment to give an informed opinion. Due to the lack of information available, we decided not to include this equipment in the scope of the legislative proposals.

Conclusions

The consultation found that representatives of the specialist printing industry felt there was evidence that specialist printing equipment and materials are being knowingly supplied for use

for criminal conduct, and there was a consensus that legislation would be the best means to tackle this problem.

The consultation demonstrated that micro businesses and SMEs (small and medium enterprises) are as much a part of the problem as larger businesses, as they comprised 98% of industry respondents.

As a result of the consultation, we decided not to take forward the second proposed offence of recklessly supplying specialist printing equipment or materials that are subsequently used for criminal conduct. Some concerns were expressed that such an offence could be difficult to enforce, that businesses could be unclear whether they would be in scope of such an offence, and that the introduction of this could result in over-compliance by businesses. There were therefore concerns that this could pose an additional burden to business, in particular small businesses, which could be detrimental to growth and anti-competitive. We have instead worked with the industry and the Metropolitan Police Service, through Project Genesis, to produce advisory voluntary guidance on good practice that businesses can adopt to protect themselves from becoming victims of payment fraud and reduce their risk of inadvertently supplying these goods for use in criminal conduct. This will ensure that the industry as a whole can gain the maximum benefit of the experience of members of Project Genesis.

As a result of the consultation, we decided to exclude MOT certificates and document scanners from the scope of the legislation.

Next steps

Charlie Elphicke MP introduced the Specialist Printing Equipment and Materials (Offences) Bill to Parliament on 24 June 2013, as a Government supported Private Member's Bill. This Bill makes provision for an offence in respect of the supplies of specialist printing equipment and related materials.

Alongside this consultation response we are publishing guidance, produced with support from Project Genesis, on voluntary procedures businesses can adopt to protect themselves from becoming victims of payment fraud and reduce their risk of inadvertently supplying specialist printing equipment and materials for use in criminal conduct.