

Policy equality statement (PES)

Offensive Weapons Bill 2018

The Offensive Weapons Bill strengthens existing legislative measures on offensive weapons, focusing on corrosive substances, knives and certain types of firearms. The Bill will give new laws to ban the sale of corrosive substances to anyone under the age of 18, to target people carrying acid, to make it more difficult for anyone under the age 18 to buy knives online and to ban certain types of firearms. Specifically, the Bill will:

- a) Prohibit the sale (both online and offline) of products containing certain corrosive substances to persons under the age of 18 and prohibit their delivery to a residential address;
- b) Create an offence of possessing a corrosive substance in a public place;
- c) Strengthen the law in relation to the sale on knives online to stop them being purchased by those under 18 and delivered to a residential address;
- d) Make it an offence to possess certain weapons in private covered by paragraph 1 of the Schedule to the Criminal Justice Act (Offensive Weapons) Order 1988 and section 1 of the Restriction of Offensive Weapons Act 1959;
- e) Extend the provisions in section 139A and section 139B of the Criminal Justice Act 1988 to make it an offence to possess a knife or offensive weapon in the grounds of further education establishments;
- f) Update the definition of a flick knife in the Restriction of Offensive Weapons Act 1959;
- g) Amend the legal test for threatening with an offensive weapon to aid prosecution;
- h) Prohibit high energy and rapid firing firearms and a device known as a bump stock which increases the rate of fire of rifles.

The new measures follow the Government's commitment that they are determined to tackle serious violent crime, particularly in response to the increase in police-recorded knife and firearms offences, and an increase in acid attacks. This type of criminal activity has a huge impact on society and the lives of the individuals, including the victims, their families and the perpetrator.

In the 12 month period ending 2017, compared to the previous year, there was a 22 per cent increase in offences involving knives/sharp instruments and an 11 per cent increase in offences involving firearms, and between 2012/13 and 2016/17 the number of recorded corrosive substance attacks increased from 183 to 504.

The previous Home Secretary announced the new Serious Violence Strategy, which was published 9 April. This strategy sets out a range of actions, including the new legislative measures within the Offensive Weapons Bill and to further strengthen law enforcement response to serious violent offences. The strategy also takes a stronger focus on prevention and early intervention, looking to address the root causes of individuals adopting both risky and violent behaviour and tackle the issues before they arise and escalate.

On 3 October 2017 the previous Home Secretary announced plans to consult on a range of proposals on new legislative measures on offensive weapons, which included measures to ban the sale of acids to under-18s; prevent children purchasing knives online and restrict access to dangerous firearms. On the 8 April, the proposals to be included as part of an Offensive Weapons Bill were announced.

Summary of the evidence considered in demonstrating due regard to the Public Sector Equality Duty.

In drafting the Bill, due regard has been paid to the Public Sector Equality Duty¹ to:

- Eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act;
- Advance equality of opportunity between people who share a protected characteristic and people who do not share it; and
- Foster good relations between people who share a protected characteristic.

We considered all the protected characteristics:

- Age
- Disability
- Gender Reassignment
- Pregnancy and maternity
- Race
- Religion and belief
- Sex
- Sexual orientation
- Marriage and civil partnership

Consultation

In developing the measures in the Bill, the Home Office launched a public consultation on 14 October 2017, inviting responses on the proposals to be included as part of new legislative measures for an Offensive Weapons Bill. The consultation closed on 9 December 2017. The consultation was open to all those from across the UK, with responses received from organisations and associations linked to the areas being captured, as well as members of the public.

Analysis of the consultation responses fed into the development of the Bill, taking into consideration key points raised, in particular in relation to any impact on protected characteristics.

Consideration of protected characteristics and potential impact of proposals

Sale and possession of corrosive products:

The Bill will contain a new offence of selling a corrosive product to a person under the age of 18 (both online and offline) and prohibiting the dispatch of a corrosive substance sold online to a residential address. There will also be a new offence of possession of a corrosive substance in a public place (without good reason or lawful authority).

¹ Section 149, the Equality Act 2010.

Through work with the police, prosecutors, retailers, health professionals, relevant government departments and agencies and support from charities and victim groups, it was agreed that action was required to prevent attacks with these kinds of substances. This included ensuring new legislation would function effectively and work was undertaken with retailers to decide how best to restrict access to acid and other corrosive substances of concern.

Placing an age restriction on the sale of corrosive substances will be discriminatory to those under 18. However, the Government believes this is justified. The measures being put in place will replicate s141A of the Criminal Justice Act 1988 in respect of these products to create parity between this regime and the knife regime. Although it is recognised that new legislation will be placing a restriction on those of a certain age group, under 18s, due to the concern of risk to the public and the increase in the number of offences using these items these restrictions are justified. Following a voluntary data collection over a 6 month period (November 2016 – April 2017), commissioned by the National Police Chiefs' Council, 39 forces provided a return, in which it was found that there were 408 cases of corrosive attacks within the 6 month period, with 21% of perpetrators where the age of offender was known were under 18. The impact on under 18s will also only apply to those substances that are listed under Schedule 1 of the Bill, which are of a certain concentration level and are those corrosive substances that are the most harmful and have been used in attacks. Despite the potential differential impact on those with the protected characteristic of age, the Government is of the view that any such impact is proportionate and justified and that the measures on corrosives will help stop young people getting hold of particularly dangerous corrosives and ensure the public are protected from harm.

We are replicating the prohibition on the delivery to residential premises on knives for corrosive substances. Therefore, this may have some impact on those with a disability; however, this is justified, as it should be minimal impact, as it only applies to those substances listed in Schedule 1 of the Bill, which cover those designated as the most harmful corrosive substances. Therefore, individuals will still be able to have household products that contain non-harmful levels of corrosives delivered to their residential premise.

The use of acids and other corrosive substances as a weapon to inflict serious harm is of great concern, with evidence showing that the number of attacks is increasing (between 2012/13 and 2016/17 the number of recorded corrosive substance attacks increased from 183 to 504).

Sale of bladed articles to persons under 18:

The Government is committed to tackling knife crime. In the 12 month period ending September 2017, knife crime increased by 21%. Police recorded knife crime increased by 22% in the year ending December 2017 compared with the previous year - from 32,468 offences to 39,598 offences – The Metropolitan Police had the largest volume increase (accounting for 48% of the total increase).

It is already an offence to sell knives and other bladed articles to an under 18 online, which has been in place since 2007. However, since the growth of the internet it has become clear that not all retailers are properly checking that those being sold knives and bladed articles are over the age of 18. Between 2008-2009 Trading Standards conducted two online test purchase operations, which showed that 80% of retailers sampled would sell to a person under 18. In 2014, the Home Office commissioned a

test purchase operation, which showed 69% of retailers failed the test and in 2016, Trading Standard undertook a further test purchase operation, where 72% of retailers tested failed to verify age at point of purchase. Although the two further operations showed a slight improvement, it demonstrated that retailers were still selling to under 18s. Therefore, legislation will amend the existing offence prohibiting the sale of bladed articles to those under 18 so that the defence of having taken reasonable precautions and exercised due diligence can only be relied upon in relation to online sales where the seller has met certain conditions. As the sale is already illegal, we do not anticipate any further differential impact to those under 18 years of age.

Delivery of bladed products to residential addresses:

Where a sale of a bladed product is made remotely, the seller will be committing an offence if they deliver, or arrange for the delivery of, that product to residential premises – an address that is used solely for residential purposes.

This proposal will impact on everyone, but there is a potential to have more of an impact on those with certain disabilities, who may face difficulties in arranging for alternative methods of obtaining bladed products purchased remotely. Following the consultation, in which these concerns were raised, in developing the final proposals these points have been taken into consideration.

For the purposes of this proposal, the definition of a 'bladed product' has been applied, to ensure that it only related to those articles that has or is a blade and is capable of causing a serious injury to an individual which would involve the cutting of that individual's skin, this means items such as plastic cutlery and table knives can still be delivered to a residential address. This will mitigate some of the impact on people with certain disabilities, as they will still be able to have some knives delivered to their home.

Many of the types of knives that will fall under the definition of a bladed product, such as kitchen knives and bread knives are widely available in the broader retail environment. This will provide a level of mitigation, though it is acknowledged that some people with certain disabilities may also face challenges accessing local shops. It is also acknowledged that some people with certain disabilities may want to purchase products that might not be readily available in local shops.

The Bill provides for a defence where the seller is able to prove the bladed product was adapted for the buyer in accordance with specifications provided by the buyer or if the adaptation were made to facilitate the use of the product by the buyer, for example, this could include those with a physical disability that need specially adapted knives for enabling the preparation of food. This will mitigate some of the potential impact on people with certain disabilities.

Although consideration has been provided to mitigate potential impact of the proposals, there may be some individuals that regardless of this will be impacted. Therefore, despite the potential differential impact on those with the protected characteristic of disability, the Government is of the view that any such impact is proportionate and justified to ensure that individuals are prevented from easily accessing dangerous weapons that could be used to inflict serious harm on another.

Under religious grounds, there were concerns as part of the consultation on the delivery of kirpans, which consists of a short sword or knife with a curved blade, worn

(sometimes in miniature form) as one of the five distinguishing signs of the Sikh Khalsa. The prohibition on delivery will apply to kirpans, which may make it more difficult for people who are Sikh to purchase them. This potential impact is mitigated by the fact that it will be possible to have kirpans delivered to a non-residential premises, which will include a Gurdwara.

Possession of certain offensive weapons

The Bill makes possession of a sword with a curved blade of 50cm or over in length an offence, including all other weapons as describe in the Schedule in The Criminal Justice Act 1988 (Offensive Weapons) Order 1988. Therefore, this provision may capture very large kirpans, although these are relatively uncommon. This could particularly impact on people who are Sikh. This impact is mitigated by the defence available where the purpose is for use in religious ceremonies.

Despite the potential differential impact on those with the protected characteristic of religion, the Government is of the view that any such impact is proportionate and justified to ensure the public are protected from harm.

Prohibition of certain firearms:

Legislative measures will amend section 5 of the Firearms Act 1968 to include "any rifle from which a shot, bullet or other missile, with kinetic energy of more than 13,600 joules at the muzzle of the weapon, can be discharged;" and "any rifle with a chamber from which empty cartridge cases are extracted using— (i) energy from propellant gas, or (ii) energy imparted to a spring or other energy storage device by propellant gas, other than a weapon which is chambered for .22 rim-fire cartridges;"

The purpose of firearms legislation is to reduce the risk that firearms can be used in criminal activity. Those working within law enforcement have raised concern that the weapons, to be inserted under section 5, have the potential to cause significant damage if they were to get into the hands of terrorists, criminals or an individual seeking to commit a major shooting atrocity.

Following the public consultation, concern was raised on the potential impact that banning rapid firing rifles such as the VZ58 Manually Actuated Release System (MARS) rifle could have on disabled shooters. Respondents outlined that some disabled shooters rely of this weapon to participate in the activity of shooting and that the banning of this particular firearm could have some impact on their ability to do so. However, no evidence was produced on how or why they would adversely effect disabled shooters, for example, that these are the only types of weapons they can use, nor what forms of disability would rely on this weapon. Therefore we do not anticipate any differential impact from this proposal.

Other protected characteristics:

It is not anticipated that there will be any adverse impacts on the protected characteristics related to gender reassignment; marital and civil partnership status; pregnancy and maternity; race (including ethnic or national origins, colour or nationality); sex; or sexual orientation.

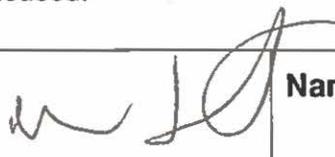
Human Rights

The Home Secretary has signed a statement under section 19(1)(a) of the Human

Rights Act 1998 that, in her view, the provisions of the Bill are compatible with the European Convention on Human Rights. The Home Office has published an ECHR memorandum alongside the Bill.

Overall Impact of the Offensive Weapons Bill

The government considers that although the proposals will have disproportionate impact on individuals with protected characteristics including age, disability and religious reasons, the Bill mitigates this by ensuring that those restrictions, for example the purchasing of items being prohibited to under 18s, are consistent with other legislative measures and for corrosives, only captures those products that are likely to cause serious injury if misused.

SCS sign off		Name/Title	Nick Hunt, Head of Tackling Crime Unit, CPFG
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I have read the available evidence and I am satisfied that this demonstrates compliance, where relevant, with Section 149 of the Equality Act and that due regard has been made to the need to: eliminate unlawful discrimination; advance equality of opportunity; and foster good relations.

Directorate/Unit	Tackling Crime Unit, CPFG	Lead contact	Elizabeth Gear
Date	18/06/2018	Review Date	3-5 years after Royal Assent