



Home Office

Knife Crime Prevention Orders (KCPOs) Practitioners' Guidance

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1. The Purpose of the Practitioners' Guidance

This practitioners' guidance is to be read in tandem with the full Framework Guidance for Knife Crime Prevention Orders (KCPOs). The Framework Guidance is available at www.gov.uk and has been published following a public consultation. This practitioner's guidance is therefore primarily intended to be used by the relevant authorities involved in the KCPO process as an operational guide.

KCPOs will require a multi-agency approach. The police will need to work with relevant organisations and community groups to support those who are issued with a KCPO by the courts, to steer them away from crime. Different organisations, agencies and groups will have a role to play to ensure that KCPOs are the preventative tool that they are intended to be. This guidance is therefore also aimed at those who are involved in the management and review of KCPOs.

2. What is a KCPO?

The Offensive Weapons Act 2019 includes provisions to help to tackle knife crime, attacks involving the use of acids and other corrosive substances, and the misuse of firearms.

The Act also introduced Knife Crime Prevention Orders (KCPOs). These new preventative civil orders will be an additional tool that the police will be able to use to work with young people and others to help steer them away from knife crime and serious violence by using positive requirements to address factors in their lives that may increase the chances of offending, alongside measures to prohibit certain activities to help prevent future offending.

KCPOs will help to divert those who may be carrying knives, or who are at greatest risk of being drawn into serious violence, away from being involved in knife crime. They will also help to prevent others who have been involved in knife crime from further offending when used following a conviction.

3. Types of KCPO

KCPO made on conviction

A KCPO may be made by any court dealing with the defendant (e.g. a Crown Court, Magistrates' Court or Youth Court).

Section 19 of the Offensive Weapons Act 2019 sets out the conditions that must be met for the court to make a KCPO on conviction.

KCPO otherwise than on conviction

The courts also have the power to make KCPOs on complaint by the police. A KCPO may be made in respect of any person who is over the age of 12. Where the intended recipient is an adult, the application must be made to the magistrates' court, and where the intended recipient is under 18 years of age, the application must be made to the Youth Court.

Section 14 of the Offensive Weapons Act 2019 sets out the conditions that must be met for the court to make a KCPO on complaint.

- Firstly, the court must be satisfied that an application has been made in accordance with section 15 of the Offensive Weapons Act 2019. The application is made by complaint. The time limits imposed by section 127 of the Magistrates' Courts Act 1980 do not apply to such a complaint.
- Secondly, the court must be satisfied, on the balance of probabilities (the civil standard of proof), that the defendant has, on at least two occasions in the relevant period, had a bladed article with them in a public place, on school premises or on further education premises without good reason or lawful authority. (A "bladed article" is an article to which section 139 of the Criminal Justice Act 1988 applies and includes articles with a sharp point, and the "relevant period" means a period of two years preceding the date on which the order is made). This doesn't include any events occurring before the provisions come into force.
- Thirdly, the court must consider it necessary to make the order to protect the public generally, or to protect particular persons (including the defendant) from risk of physical or psychological harm involving a bladed article, or to prevent the defendant from committing an offence involving a bladed article.

KCPO without notice (otherwise than on conviction)

Whilst an application for a KCPO will normally be made following the giving of notice to the defendant, the law also enables the applicant to make an application for a KCPO (otherwise than on conviction) without giving such notice. Without notice applications, under Section 16, should be made only in exceptional or urgent circumstances and the applicant would need to produce evidence to the court as to why a without notice application is necessary.

A 'without notice' application for a KCPO might be considered where there is an urgent need to apply prohibitions to a subject which cannot wait for a full KCPO

hearing to be convened (which as per the court rules require a minimum of five working days following request to comply with notice requirements). An urgent need might involve cases in which the police receive intelligence of an incident which is likely to occur in the near future involving the subject, for example, a planned engagement to involve a rival gang in knife violence. KCPOs without notice would be considered part of an array of options implemented by the police in response to such a risk.

Interim KCPOs – Without notice

Where an application is made for a KCPO without notice, the court may grant an interim KCPO pending a full hearing. This would usually occur where a without notice hearing has been sought to prevent imminent harm or absconding. The requirement under section 15(5) to consult with the Youth Offending Team (YOT) where the defendant is a child, does not apply for applications without notice for an interim KCPO (as per section 16(2)). However, wherever possible the applicant should seek to consult or inform the YOT before the without notice hearing, as information may be useful for the application or risk assessment. Whether or not this happens, under section 15(5) the applicant has a duty to consult the YOT before the with notice full hearing.

An interim KCPO is temporary and one of the conditions for making it, is that the hearing for the KCPO is adjourned. The defendant must be notified of the full hearing of the KCPO and there is still a requirement to consult with the YOT, where the defendant is a child, before the full hearing (section 16(4) & (5)).

Interim KCPOs – With notice

The court also has a power to grant an interim KCPO where it adjourns the hearing of a KCPO (otherwise than on conviction) of which the defendant has been given notice (section 18). The court may grant an interim KCPO if an application has also been made on complaint for an interim KCPO (either at the same time as the full application or subsequently) and the court considers that it is just to make such an order. So, for example, the court may make an interim order in a situation where it is satisfied it is necessary for the purpose of protecting a person from immediate harm pending the full determination of the application for the order.

4. Is a KCPO the right solution?

A KCPO should not be seen as the sole option for individuals involved in knife crime or knife possession, they are an important tool within a wider partnership approach to managing the risk of knife crime. Careful consideration should be given to the

appropriateness of the KCPO as the correct method of intervention for the individual in question.

The KCPO is a new civil order intended to prevent individuals being drawn into, or further into, knife crime, knife possession and related serious violence. The intention is that the orders will focus specifically on those most at risk of being drawn into knife crime and serious violence, to provide them with the support they need to turn away from violence. The focus is therefore on providing preventative interventions, rather than on punitive measures.

The availability and range of positive requirements will vary between local areas.

Examples include:

- Educational courses – for both adults and under 18s
- Life skills programmes
- Sporting participation – such as membership of sporting clubs or participation in group sports
- Awareness raising courses
- Targeted intervention programmes
- Relationship counselling
- Drug rehabilitation programmes
- Anger management classes
- Mentoring

Applicants should think creatively and carefully about the positive requirements that they intend to propose. Applicants should ensure that the requirements are tailored to the individual circumstances of each case. This means taking into account specific characteristics such as ethnicity, gender, age or disability, that could require the involvement of specialist services. Where children or vulnerable adults are supported by a social worker, that social worker will be able to provide a particularly knowledgeable insight into what will work for that particular child or vulnerable person. Consideration should also be taken to try and understand the context of the individual's knife possession. The reasons for carrying a knife vary greatly, from intimidation, to fear of danger, to even self-harm, and therefore the positive requirements best suited to the individual will vary accordingly.

A KCPO should be considered in the following circumstances, although this list is not intended to be exhaustive:

Individuals who are:

- charged with knife possession;
- suspected of knife carrying on more than one occasion;
- habitual knife carriers.

Who can receive a KCPO?

KCPOs can be sought for any individual aged 12 upwards. The aim here is to prevent the most at risk or vulnerable individuals including, where appropriate, children from becoming involved in knife possession and knife crime.

It is the intention that KCPOs issued to under 18s should be subject to more scrutiny than those issued to adults (for example, through more regular reviews) and will be subject to consultation with youth offending teams.

5. The police KCPO process

The application process for a KCPO is likely to vary between police forces depending on their internal processes and structure. This section therefore provides a top-level process of applying for a KCPO which will be appropriate to all audiences.

KCPO otherwise than on conviction

A KCPO sought otherwise than on conviction will be applied for to the court by the police, under section 14 of the Offensive Weapons Act 2019, and will follow the process set out in Figure 1: KCPO Otherwise than on conviction process.

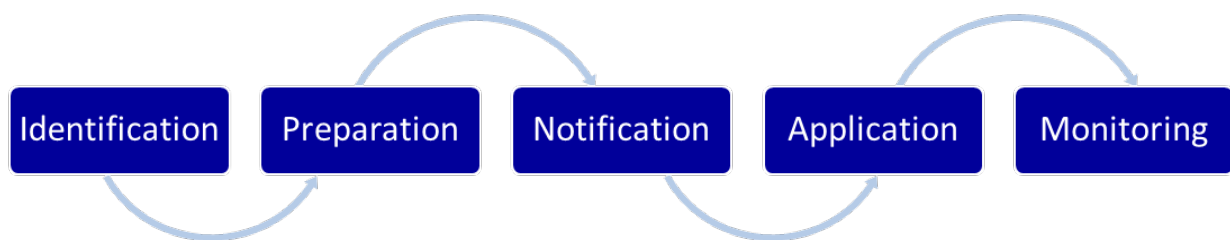


Figure 1: KCPO Otherwise than on conviction process

Police identification

The identification of a subject for a KCPO will be in accordance with chapter 4 and whether the conditions below would be met at the point of the court considering the order:

- aged 12 or over, and,
- the subject has on at least two occasions in the two years prior to the order had a bladed article with them without good reason or lawful authority:

- in a public place in England and Wales,
- on school premises, or,
- on further education premises.

Those two or more occasions cover the two years prior to the date of the KCPO and must have occurred after section 14 of the Offensive Weapons Act 2019 came into force. The court needs to be satisfied on the balance of probabilities and hearsay evidence is admissible.

The requirement to 'have had a bladed article with them' applies to KCPOs in the same way that it applies to section 139 Criminal Justice Act 1988 and section 1 of the Prevention of Crime Act 1953; and the relevant case law should be read accordingly, albeit against the civil standard of proof.

A KCPO should only be applied for if the court will consider a KCPO will be necessary in order to:

- protect the public from the risk of harm involving a bladed article;
- protect any particular members of the public (including the defendant) from such risk; or,
- prevent the defendant from committing an offence involving a bladed article.

If these factors are present, and the KCPO is deemed suitable for the subject for the reasons stated, it can then progress to preparation.

Police preparation

Preparation for the KCPO application will involve:

- compilation of supporting evidence
- consideration and decision on appropriate requirements and prohibitions for the order
- engagement with the Youth Offending Team
- laying of complaint with the court
- scheduling a hearing at the Magistrates' / Youth Court for the local justice area (in accordance with local court and/or force policy)
- provision for the cost of the hearing
- completion of notice and application form
- service of the summons and the application upon the defendant.

This list is not exhaustive, but indicative of the areas which must be covered in preparation.

Application to Court for a KCPO (not on conviction)

Section 15(1) of the Offensive Weapons Act 2019 states that an application for a KCPO under section 14 may be made only by:

- a) a relevant chief officer of police;
- b) the chief constable of the British Transport Police Force; or
- c) the chief constable of the Ministry of Defence Police.

This authority to apply for a KCPO under section 14 can be delegated by the Chief Officer or Chief Constable to a member of their force of any rank, including both police officers or police staff, as determined by them; the person or rank of officer/staff so delegated will be a 'relevant person' capable of making such an application for a KCPO.

The applicant will present the application to the court in accordance with court rules. The application will be based on the complaint laid with the court.

The hearing time at the respective Magistrates/Youth Court for that local justice area must be arranged in accordance with local arrangements for such matters.

Monitoring

The applicant must indicate who will be responsible for the monitoring of the subject's compliance with conditions and should have a plan for the conduct of this as well as how to deal with breaches of conditions. For KCPOs issued to children the Youth Offending Team (YOT) should be involved in this process.

Once an order has been obtained, the order, along with the relevant PNC forms, must be sent to PNC Bureau as soon as practicable for this to be uploaded onto PNC. It must also be stored on any local system where a copy of all documents and of the order can be saved.

KCPO on conviction

A KCPO on conviction will follow a different process than that set out above as the subject is already appearing at court for a criminal matter and the application to the court is made by the prosecutor. However, this will usually be on the recommendation of the Police. The recommendation will appear in the 'Orders on conviction' section on the MG3 within the case file for the offence and police providing the evidential bundle (as set out in Chapter 8 *Evidence*) and the condition considerations (as set out in Chapter 9 under *Requirements and prohibitions*).

Where a KCPO on conviction is not in a prepared state or not considered prior to charge (and therefore not included on the MG3 form), a case update should be sent to the CPS using an MG20 and the evidential bundle should be sent along with that.

The KCPO on conviction notification form must be served (see Appendix B – Notification of KCPO application on conviction form) as soon as practicable, without waiting for the court to deliver a trial verdict and must be served on:

- the court officer;
- the defendant; and
- any person on whom the order would be likely to have a significant adverse effect (for example, parents or carers if the defendant is a child).

This can only be done while the defendant is still in the court process and prior to sentencing. If the defendant has already been convicted and sentenced then a KCPO on conviction can no longer be applied for, although the applicant could consider whether a KCPO otherwise than on conviction might be appropriate (see Chapter 3 under *KCPO Otherwise than on conviction*).

Where the court has asked for a pre-sentence report, prosecutors should liaise with the probation service or YOT to ensure that any proposed sentence requirements are consistent with the proposed terms of the KCPO.

KCPOs on conviction do not apply where the defendant is found not guilty, or the outcome is no case to answer, the trial is discontinued, or no further action is taken prior to the trial.

Monitoring and recording of the KCPO is the same as KCPO not on conviction (see above section *Monitoring*).

Interim KCPO

An interim order can be made in two instances, and for the purpose of this guidance, these are not treated as requiring a separate process:

1. an '*otherwise than on conviction*' application made without notice to the defendant; or
2. an '*otherwise than on conviction*' application is made with notice, but the application is adjourned by the court.

In the first instance (section 16 and 17 of the Offensive Weapons Act 2019) the process would follow the otherwise than on conviction KCPO but without notice being given to the subject. In this case the full order cannot be granted but the court can issue an Interim Order and adjourn the proceedings (for later consideration of the full order once the subject has been notified). Prohibitions, but not requirements,

can be imposed by the court on this type of Interim Order. The process would continue as usual on the subsequent hearing.

In the second instance (section 18 of the Offensive Weapons Act 2019) the process would follow the otherwise than on conviction KCPO with notice process, but the court would have adjourned the proceedings.

- Following an application for a KCPO, the applicant applies (section 18(3), or subsequently applies (section 18(4)), for an interim order and the court thinks it just to make such an order (section 18(5));
- Both prohibitions and requirements can be imposed as under section 14 of the Act as the court thinks appropriate.

The applicant can, therefore, subsequently apply for an interim KCPO when the court decides to adjourn. Unlike an interim order without notice under section 17, an interim order with notice under section 18 can include both requirements and prohibitions. The process would continue as usual on the subsequent hearing.

Monitoring and recording of the KCPO is as in the above section *Monitoring*.

6. The CPS KCPO process

CPS identification

The CPS will usually rely on the police to identify suitable cases for a KCPO upon conviction, because they will rely on the police to supply the evidence in support and because ultimately the police will be responsible for any monitoring and any action to be taken if there is a breach.

The police should identify a case in which a KCPO should be sought initially by completing the “Orders on Conviction” section on the MG3 pre-charge form or MG5 post-charge form. They should then submit a draft Notice of Intention to apply for a KCPO (see Appendix B) for approval by the CPS post-charge, normally at the same time as the submission of the other material for the file.

Prosecutors may at times identify suitable cases for a KCPO. Where they do so, they will liaise with police to seek their views on whether an application should be made.

Where the individual is under 18, the relevant Youth Offending Team (YOT) must be consulted. This will be done by police (on behalf of the CPS) who will include the views expressed by the YOT as part of their application package to the CPS.

Application submitted to CPS

The application submitted by police should explain why the criteria for making a KCPO are met, identify the prohibitions and requirements sought, explain why they are necessary and set out the evidence in support of them.

CPS decision-making

The CPS will review the material provided to them by police (including the material provided as part of the prosecution file for the relevant offence) and decide whether or not to make the application in the event of a conviction.

The CPS review of the KCPO application will be separate from the review of the substantive charges. There must be sufficient evidence to meet the criteria set out in section 19 of the Offensive Weapons Act 2019 and it must be in the public interest for a KCPO to be made.

CPS application

The process for making an application for a KCPO on conviction is different from the process for a KCPO application other than on conviction. An application for a KCPO on conviction is governed by the Criminal Procedure Rules 2020 (rule 31.3) which sets out the requirements for what the notice must contain and on whom it must be served.

Notification of intention to apply for a KCPO on conviction must be served on the defendant as soon as practicable and not wait until the defendant is convicted.

A KCPO on conviction can only be made at the same time as the defendant is sentenced (which for these purposes includes a conditional discharge) for the relevant offence. It must be in addition to the sentence. It cannot be made if the proceedings result in anything other than a conviction.

7. The role of Youth Offending Teams

KCPO application

Where the defendant will be under 18 at the time of the application, both *otherwise than on conviction* orders and *on conviction* orders require consultation with the Youth Offending Teams (YOT) in the area the defendant lives by the applicant or prosecution (as appropriate) prior to the application being made; required by section 15(5) and section 20(2) of the Offensive Weapons Act 2019, respectively.

This consultation can be by any means, but the following must be relayed, to the YOT:

- Defendant details
- Offending history
- Relevant hearsay evidence and intelligence
- Reason for the application
- The proposed requirements and prohibitions

The YOT's views must be sought in relation to the application and its particulars, and consideration given to their reply and any suggestions therein; they are however not binding on the applicant.

It is imperative that where the child is being supported by a social worker, Children's Social Care (CSC) are consulted early in the consideration process of a KCPO and CSC should be engaged and consulted in the YOT report to ensure the full circumstances of the child are fully accounted for in terms of risks.

YOTs are also responsible for identifying young people under their supervision who are eligible for transferring to probation services once they have turned 18 years and for managing the transition for anyone subject to a KCPO from the youth to the adult criminal justice system, in line with localised arrangements.

KCPO Provisions

In relation to making KCPO applications in respect of defendants under 18, in addition to the Community Safety Partnerships, Violence Reduction Units (VRUs) and Youth Offending Teams (YOTs) will also be able to identify and propose positive requirements for defendants. YOTs should be consulted on the suitability of all proposed requirements and prohibitions for defendants under 18. Care must be taken to ensure that prohibitions or requirements proposed for a KCPO do not conflict with any protected characteristics or with defendants requiring any reasonable adjustments in line with equalities legislation. Consideration should also be taken to ensure prohibitions and requirements do not conflict with other interventions in place to support children in need that are already in place.

Service and Notification

It is particularly important in the case of defendants under the age of 18 that consideration is given in the service of the order to the level of maturity and/or any developmental needs the defendant may have to ensure the individual is able to fully understand the conditions of their order. Therefore, any developmental needs or

observations about the level of maturity of the defendant should be communicated in the YOT report.

8. Evidential considerations

Application of the rules of evidence

The KCPO is granted on the civil standard of proof, being the balance of probabilities.

Applications for civil orders are governed by the civil rules of evidence and applications for criminal orders by the criminal rules. In most circumstances the rules are the same, but that is not the case in relation to hearsay evidence.

Hearsay evidence is admissible; however hearsay should only be used:

- To prove minor or uncontentious issues (e.g. a copy of previous convictions)
- For key issues, where oral evidence cannot be called (for example because the only witness has made a statement but cannot be found).

Police evidence process

As a minimum standard, the following should be provided for the prosecutor/ applicant's file:

- A KCPO notification and application form
- A *lead statement* from the applicant, or other officer/staff, on a MG11 Statement, summarising the subject's offending history, background information and detailing other information; such as intelligence reports or information from other agencies.
- A court print from the Police National Computer.

In addition, the following evidence may assist:

- MG11 Statements from officers, witnesses or other agencies.
- Other evidence (such as CCTV, Body Worn Video, forensics)
- Victim impact statements
- Reports from the Youth Offending Team
- Any material required to assist the court in determination of the requirements or prohibitions; such as maps to depict a prohibition to be in a particular place, or information regarding a particular activity.

This material should be provided to the defendant if it is intended to be presented to the court. Service of statements should comply with the rules as to hearsay evidence, set out below.

When preparing the case, care should be taken to ensure that the evidence put before the court is both relevant and proportionate. This means that not all the material described in the previous section might be necessary to put before the court.

Hearsay: civil rules

Hearsay evidence is governed by the Civil Evidence Act 1995 (CEA) and the Magistrates' Courts (Hearsay Evidence in Civil Proceedings) Rules 1999 (the "Hearsay Rules").

The hearsay notice should wherever possible be served at the same time as the notice of intention to apply, and in any case at least 21 days before the hearing date. In its form the hearsay notice must comply with Rule 3 of the Hearsay Rules. It is open to the defendant to apply for the person who made the statement to be called to give evidence in person.

It should be noted that the rules of service of hearsay notices are not identical with the rules of service in criminal proceedings. In particular service by email is not permitted (Rule 6).

Previous convictions can be proved by producing an extract of the court register (a fee is payable) under s. 74 of the Police and Criminal Evidence Act 1984.

Hearsay: criminal rules

Here Rules 31.6, 31.7 and 31.8 [The Criminal Procedure Rules 2020](#) apply.

The hearsay notice should wherever possible be served at the same time as the notice of intention to apply, and if later, as soon as practicable. To allow for a counter-application, service should normally be at least 21 days before the date fixed for the hearing and never less than 14 days. In its form the hearsay notice must comply with the Rule 31.6(1)(b). It is open to the defendant to apply for the person who made the statement to be called to give evidence in person.

Previous convictions can be proved by producing an extract of the court register (no fee is payable) under s. 74 of PACE 1984.

Compliance with time limits

It is open to the court to relax time limits, but only where it would not cause prejudice to the defendant (see *M v The Director of Public Prosecutions [2007] EWHC 1032 (Admin)*). Failure to do so risks either the court refusing to receive the evidence, or an adjournment, potentially with costs against the applicant.

9. Drafting the KCPO application

Requirements and prohibitions

There are two types of provisions which can be included within an order: requirements and prohibitions. Requirements or prohibitions may, in particular, include the following:

- Requirements:
 - Be at a particular place between particular times on particular days,
 - Be at a particular place between particular times on any day,
 - Present themselves to a particular person at a place where they are required to be between particular times on particular days
 - Participate in particular activities between particular times on particular days.

- Prohibitions:
 - Being in a particular place,
 - Being with particular persons,
 - Participating in particular activities,
 - Using particular articles or having particular articles with them,
 - Using the internet to facilitate or encourage crime involving bladed articles.

These lists are not intended to be exhaustive.

Under section 22 of the Offensive Weapons Act 2019 , such prohibitions/requirements can be tailored as required by the applicant in order to achieve the purpose of the KCPO. A guide containing possible requirements and prohibitions is contained in *Figure 2: Menu of options for requirements and prohibitions*.

	Condition	Best use
Requirements	Be at a particular place between particular times on any day	This may be given to an individual to ensure that they are engaging in a particular positive activity; or this can be given to an individual to ensure that they attend school, job centre, agency that is supporting them.
	Present themselves to a particular person at a place where they are required to be between particular times on particular days	This may be given to an individual to ensure engagement with a specific point of contact, such as a YOT worker for a child
	Participate in particular activities between particular times on particular days	This can be given to an individual to ensure that they attend school, job centre, agency that is supporting them

	Take part in a restorative justice activity	This may assist the individual in gaining awareness in the effects of knife crime
	Participation in structured activities that are either educational or rehabilitative,	This may assist the individual in becoming positively engaged in activities that may deter other criminal behaviour
	Reparation to the community	This may encourage an individual to become more centric to their community (for example, by doing local unpaid work for a short period)
	Mediation	In appropriate circumstances, mediation can be an effective way of resolving an issue by bringing all parties together. However, mediation is unlikely to work if forced on those involved. All parties should be willing to come to the table and discuss their issues
	Support and counselling	This can help address underlying causes of certain behaviours
	Attending awareness classes for related issue; e.g., drugs, anger, alcoholism, knife crime	This can help raise awareness to the individual which may have an impact on their likeliness to get involved in criminality
	Youth mentoring	To show young people that there are alternative paths to follow and provide positive and relatable role models
	A job readiness course	Education, employment and engagement may help individuals get employment and assist in the prevention of criminality
Prohibitions	Not to attend a particular location	This can be given to individuals whose offending/behaviour is linked to particular locations, or can ensure avoidance of crime hotspots or specific locations to deter individual from involvement in criminality
	Curfew between times	This can be given if concerns exist regarding the individual at certain times of day/night
	Non- association with particular individuals	To attempt to stop association with people that are negative influences on the individual and prevent involvement in criminal behaviour
	Participating in particular activities	To attempt to engage the individual in particular activities to prevent/deter negative behaviours
	Using particular articles or having particular articles with them	This can ensure that the subject does not engage in unlawful behaviour using these articles
	Using the internet to facilitate or encourage crime involving bladed articles	This can be given to people to deter the use of social media to encourage violent acts or the carrying of weapons

Figure 2: Menu of options for requirements and prohibitions

The prohibitions/requirements listed in the table are not exhaustive but serve as a guide of possible provisions which could be included in a KCPO. The KCPO will include relevant prohibitions to compel the subject to stop the behaviour and positive requirements for them to deal with the underlying cause. These provisions should be bespoke to the individual and their circumstances.

Duration should be considered at this stage. A KCPO can last for a maximum of two years and a minimum of six months, beginning the day it takes effect. This will need to be specified on the application and should be proportionate to the aim of the KCPO.

Under section 23 of the Offensive Weapons Act 2019, a KCPO or an interim KCPO under section 18 takes effect on the same day it is made unless certain provisions apply (for example individuals in custody or on licence or interim KCPOs made without notice). An interim KCPO made under section 17 of the Offensive Weapons Act 2019 take effect on the date when they are served on the defendant.

Monitoring prohibitions and requirements

KCPO applications will include the details of who will be responsible for the supervision of the subject's compliance with any requirements. That person may be an individual or a representative of an organisation. Under section 22(5) of the Offensive Weapons Act, the named individual (or the person representing the organisation) has a duty to make arrangements in line with the requirements they are responsible for, and to promote the subject's compliance with the relevant requirements. They also have a duty to inform the police if the defendant has complied or failed to comply with the relevant requirements. When utilising service providers for the requirements, police will be upfront about the duty placed on them/their organisation by the Act and will only utilise providers willing to undertake that duty.

As it is possible that a KCPO may list more than one requirement, it may be necessary to name more than one supervisor. Each supervisor named on the KCPO will have responsibility to inform the police about compliance or non-compliance with the requirement for which they are responsible.

The KCPO subject must be made aware that their compliance with their requirements will be monitored to ensure they are not breached; for example monitoring whether the subject attends or fails to attend (without good reason) an appointment. However the supervisors / service providers are only required to inform the police of the subject's compliance with the conditions, and not to disclose the details of the subject's engagement, for example issues they discuss during meetings or sessions. When the subject is a child, supervisors / service providers should also consider informing the YOT of any non-compliance with conditions as the YOT may wish to consider necessary support for the child.

It will be the responsibility of the police to determine how to handle reports of non-compliance and if that qualifies as a breach.

Under the Act there is no designated supervisor to monitor compliance with any prohibitions listed in the KCPO. General monitoring of compliance with any prohibitions will be fulfilled by standard police checks, e.g. curfew checks.

10. Notice to the defendant

Prior to the KCPO hearing where the application is not made on conviction, the defendant will be summoned to attend the court hearing and will be provided with the application upon complaint in accordance with court rules. The application must summarise the evidence upon which the applicant intends to rely.

Notification requirements for children should be adjusted to take into account any special educational needs that have been identified, whether the child is a Looked after Child or has been identified as a Child in Need.

The application upon complaint should be made to the court to ensure that a summons issued by the court can be served, with the application, on the defendant a minimum of seven working days ahead of the hearing to allow for their attendance.

If the applicant decides to apply for a KCPO without providing notice to the subject, then the full order cannot be granted but the court could decide to grant an Interim KCPO (see Chapters 3 and 5 on *Interim Order*).

The combined notice and application form for a KCPO is contained in *Appendix A – Notification of KCPO application otherwise than on conviction form*.

11. Court Procedure

The hearing where the application is made on conviction

The procedure will differ depending on whether the defendant contests the KCPO.

If the KCPO is not contested, it will simply form part of the prosecution's presentation to the court. The prosecution application will address the circumstances of the relevant offence(s) for which the defendant was convicted, relevant antecedents and any explanation provided by the offender. Other evidence may then be adduced although the application may solely rest on the facts of the offence itself. The defendant may respond with mitigation, including representations on specific requirements.

If it is contested, it is likely that the application will be adjourned to a dedicated hearing. The procedure in determining whether to make an order will proceed substantially in the same way as a civil application.

The court must first decide whether there are grounds to make the order. The applicant must satisfy the court on the balance of probabilities that the defendant has been convicted of a relevant offence (as set out in section 19(10) of the Offensive Weapons Act 2019). This will normally be proved from the fact of the conviction in the proceedings, and from the PNC record.

The applicant must further demonstrate and explain the reason why it is contended that the order is necessary.

The applicant will first make a short opening address summarising the evidence in the context of the grounds for making an order. They will then call their evidence. The defendant can call evidence in rebuttal.

If the court is satisfied that the prosecution has proved to the balance of probabilities that the grounds are satisfied, and that an order is necessary, it will then hear representations from first the applicant, then the defendant, on the specific requirements and prohibitions in the order.

In addition, the court should consider:

- Information received from the prosecution consultation with the YOT if the defendant is under 18;
- The suitability or enforceability of any requirement from the individual or organisation supervising compliance with that requirement;
- The compatibility, if two or more requirements are to be imposed;
- The review date.

The court must give reasons in reaching its decision.

Civil application

The court must first decide whether there are grounds to make the order. The applicant must satisfy the court on the balance of probabilities that, on at least two occasions, the defendant had a bladed article with them without good reason or lawful authority in a public place, school premises or further education premises. The applicant must further demonstrate and explain the reason why it is contended that the order is necessary.

The procedure will follow the standard summary procedure in magistrates' courts. The applicant will first make a short opening address summarising the evidence in the context of the grounds for making an order. They will then call their evidence. The defendant can call evidence in rebuttal.

If the court is satisfied that the prosecution has proved to the balance of probabilities that the grounds are satisfied, and that an order is necessary, it will then hear

representations from first the applicant, then the defendant, on the specific requirements and prohibitions in the order.

In addition, the court should consider:

- Information received from the prosecution consultation with the YOT if the defendant is under 18;
- The suitability or enforceability of any requirement from the individual or organisation supervising compliance with that requirement;
- The compatibility, if two or more requirements are to be imposed;
- The review date.

The court must give reasons in reaching its decision.

Appeals

The statute permits for an appeal under section 28 Offensive Weapons Act 2019.

The defendant may appeal to the Crown Court regarding the

- making of a KCPO or an Interim KCPO
- variation, discharge or renewal of a KCPO
- variation or discharge of an interim KCPO
- The refusal to vary, discharge or renew a KCPO or to vary or discharge an interim KCPO order where the defendant makes such an application.

The CPS would have conduct of an appeal by a defendant against an order made on conviction. Appeals to the Crown Court constitute a complete re-hearing and so the court would receive evidence as before. It would also need to have before it the original order made.

The police may appeal where a variation or discharge was made in respect of a KCPO on request by the defendant, or where police have applied for a variation or renewal and it has been refused.

Reviews, Variations, Renewals and Discharge

Reviews are provided for by section 26 of the Offensive Weapons Act 2019 and the court may require the applicant and defendant to attend one, or more, review hearings. Where any requirement or prohibition imposed by a KCPO has effect for more than 1 year, the court must order the review hearing on a specified date within the last 4 weeks of the 1-year period. This will be for the purpose of considering whether the order should be varied or discharged.

Variations, renewal or discharge are provided for by section 27 of the Offensive Weapons Act 2019 and can be applied for by the defendant or the police on complaint in the Magistrates Court and in accordance with rules of court in the Crown Court. They can have the effect of varying, renewing or discharging a KCPO or an interim KCPO.

If, prior to the end of the KCPO's duration, the applicant deems that a renewal would be appropriate (having the effect of extending the KCPO), the applicant should apply to the court utilising the relevant court form in Appendix C – Application to Vary, Renew or Discharge form. The reason for the proposed extension should be detailed on that form, a copy of the original KCPO, and any further evidence which justifies the renewal.

Similarly, if the applicant deems that the requirements or prohibitions should be altered, or the order discharged, the applicant should complete the form with the rationale for this, along with any supporting evidence.

A representative from the original applicant's force will be required to attend the hearing to make the request.

This form must be served on both the court and the defendant. A representative from the original applicant's force will be required to attend the hearing to provide those representations.

The court cannot discharge a KCPO before it has been in effect for 6 months without the consent of both the defendant and the relevant chief officer of Police (section 27(10) of the Offensive Weapons Act 2019).

If the defendant requests a variation or discharge of the KCPO from the court, the original applicant/prosecutor will be informed by the court. If the police wish to make any representations to the request, they should reply to the court and defendant in writing as soon as practicable, and in any case within 14 days of receipt, to specify that:

- they wish to make such representations; and
- to provide the particulars of the representations.

A representative from the original applicant, i.e the police force will be required to attend the hearing to provide those representations.

Whoever the respondent is, the original order should make clear on whom any application to vary or discharge should be served. Guidance confirming the period of notice to be given for an application should be provided, and the court must satisfy itself that the respondent has been given this, otherwise KCPOs may be undermined by unmeritorious applications.

12. Sentencing for Breaches

Breach of a KCPO without reasonable excuse is an offence which can be tried either in the magistrates' court or in the Crown Court. In the former, the current maximum sentence is 6 months' imprisonment and/or a fine; in the latter, the maximum sentence is 2 years' imprisonment and/or a fine.

There is no Sentencing Council guideline currently in place for breach of a KCPO. It will therefore be necessary to apply the principles in the [Overarching Principles guideline](#) and to follow the broad approach in other guidelines, particularly analogous considerations upon sentence for the [breach of other orders](#).

The first step will involve consideration of the culpability of the offender and the harm caused by the offence. A distinction as regards culpability may be drawn here between an intentional, deliberate and flagrant breach (high culpability) and a breach falling just short of one which has a reasonable excuse (low culpability), acknowledging that there may be conduct which falls between those two points. A distinction as regards harm may be drawn between a breach which gives rise to the risks against which the KCPO is intended to guard (greater harm) and a breach whose harm is restricted only to the compliance with a court order (lesser harm), again recognising a range between two points. This assessment should lead to the identification of a suitable starting point and category range.

Care must be taken here if assistance is sought from other orders breach of which constitutes an offence but which have different maximum penalties and reflect different criminality. Subsequent relevant steps, including consideration of factors increasing or reducing seriousness, should then be followed to arrive at the final sentence.

Consideration should be given to varying the original KCPO, depending on the circumstances of the breach: for instance, to permit more time for its completion.

[Specific considerations for sentencing for defendants under 18](#)

In considering appropriate sentences for defendants under 18, the court will follow the general sentencing guidelines set out by the Sentencing Council. The court must have regard to the principal aim of the youth justice system, the prevention of offending by children and the welfare of the child.

The court will have the full range of community sentences available to them for consideration in respect of people under 18 as they do with adults.

<p style="text-align: center;">Complaint for a Knife Crime Prevention Order</p> <p style="text-align: center;"><i>Section 14 Offensive Weapons Act 2019</i></p> <p style="text-align: center;"><u>IN THE [XXX] MAGISTRATES' COURT</u></p> <p style="text-align: center;">BETWEEN: -</p> <p style="text-align: center;">[Name of Police Force]</p> <p style="text-align: center;"><u>APPLICANT</u></p> <p style="text-align: center;">-v-</p> <p style="text-align: center;">[XXXX XXXXXXXX]</p> <p style="text-align: center;"><u>DEFENDANT</u></p> <p><u>Court Ref. No:</u>.....</p> <p><u>Date of complaint:</u></p> <p>Complaint for an otherwise than on conviction KCPO:</p> <p><input type="checkbox"/> With notice</p> <p><input type="checkbox"/> Without notice (<i>S.16 Offensive Weapons Act 2019</i>)</p> <hr/> <p>1. Applicant's details</p> <p>This application is made on behalf of the Chief Officer..... (Name) of</p> <p>... (Police Force) by:</p> <p>Full name (<i>applicant</i>):</p> <p>Rank/Band:</p> <p>Pay/Warrant no.:</p> <p>Email address:</p> <p>Telephone no:</p> <p>Address of police force:</p> <p>Postcode:</p>
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I confirm that I am a constable, or designated person, able to apply on behalf of the Chief Officer of Police.

2. Defendant's details

Surname:
First name(s):
Gender: Male Female Other
Date of birth:
Under 18 on date of complaint: Yes No
Full postal address:
Postcode:
Email address:
.....
Phone no. (if known):

The defendant:
 Lives in the police area of the applicant (*S.15(2)(a) Offensive Weapons Act 2019*)
 Is in, or is intending to come to, the police area of the applicant (*S.15(2)(b) Offensive Weapons Act 2019*)

If under 18, and where known, Parent/Guardian details:

Parent/Guardian Name:
.....

Parent/Guardian Address:
.....

If unable to provide, explanation as to why:
.....
.....
.....

3. Matter of complaint

This complaint is made on the basis of section 14 Offensive Weapons Act 2019, that the defendant has had a bladed article with them without good reason or lawful authority in a public place in England and Wales, on school premises or on further education premises, on at least two occasions in the relevant period, namely:

.....
.....
.....

.....
.....
And it is necessary to make an order to:

- (a) Protect the public in England and Wales from the risk of harm involving a bladed article, or
- (b) Protect any particular members of the public in England and Wales (including the defendant) from such risk, or
- (c) To prevent the defendant from committing an offence involving a bladed article.

Provide the grounds in support of your complaint:

Taken before me:.....
Choose an item.

Note: This complaint, including the supplement, must be served on the court. For a *With Notice* application, an authorised officer or the court will decide to issue a summons. Following the issue of the summons, both the complaint, including the supplement, and the summons, must be served on the defendant in accordance with the Magistrates' Courts Rules 1981.

Supplement to the complaint for a Knife Crime Prevention Order

Proposed Duration of Knife Crime Prevention Order

The order to last for/until:

Note: A Knife Crime Prevention Order has effect for a fixed period specified in the order. The fixed period specified must be a period of a maximum 2 years beginning with the day on which the order is made. Different periods may be specified in relation to different prohibitions or requirements. The minimum period is 6 months. A new Knife Crime Prevention Order replaces an existing one.

An Interim Knife Crime Prevention Order does not have to be for a fixed period and has effect only until the determination of the main complaint, when it ceases to have effect.

Proposed Prohibitions/Requirements

The Applicant proposes the following PROHIBITIONS:

--

The Applicant proposes the following REQUIREMENTS:

Requirement	Supervisor (Person and/or organisation)
1.	
2.	
3.	
4.	

Note: It is important that any proposed positive requirement in respect of the defendant be such that the supervisor can monitor their compliance in order to comply with their duty under s.22(5) Offensive Weapons Act 2019. Requirements in an order must be compatible with each other.

4. Attachments in support of the proposed application:

The applicant attaches the following material upon which the application will be based: *(Attach items (i) and (ii) in every case and (iii) where applicable.)*

(i) Description of previous instances of the defendant having a bladed article with them without good reason or lawful authority in a public place in England and Wales, on school premises or on further education premises (a list, with dates, of the specific instances upon which the applicant will rely in making this application)

- (a)
- (b)
- (c)
- (d)

(ii) **Evidence to be relied on** (e.g. witness statements, any previous convictions):

A list of such evidence that has not yet been served and is attached to and served with this notice:

- (a)
- (b)
- (c)
- (d)

(iii) **Other documents served with this notice** (*The applicant is required to list and attach all other documents now served, such as a map of the proposed exclusion area*).

- (a)
- (b)

5. Connection to previous order(s)

Is this complaint connected to one or more previous Knife Crime Prevention Orders?

- Yes (*If yes, please give the previous Order(s) court case reference number(s) and explain the connection between them and this complaint*)
- No

Reference no.	Connection

6. YOT consultation conducted? (*Under 18 only*)

- [] Yes [] No

YOT consulted:

.....

If applying without notice, which YOT do you intend to consult:

.....

7. Declaration

To the best of my knowledge and belief:

- (a) this complaint discloses all of the information that is material to what the court must take into consideration when deciding on the complaint, including anything that might reasonably be considered capable of undermining any of the grounds of the complaint; and
- (b) The content of this complaint is true.

Signed:

.....

Date:

.....

**NOTICE OF INTENTION TO APPLY FOR A KNIFE CRIME PREVENTION ORDER IF THE
DEFENDANT IS CONVICTED**

AND

PROPOSED APPLICATION
(section 19 Offensive Weapons Act 2019)

R v

Case reference number:

In the **Magistrates' / Youth / Crown Court**

Relevant offence(s) charged:

(this offence involves:

- violence or the threat of violence*
- the use by the defendant or any other person of a bladed article in the commission of the offence*
- the defendant or another person who committed the offence had a bladed article with them when the offence was committed)*

1. THIS NOTICE is to tell you *(name, address and date of birth of the defendant against whom the prosecutor intends to apply to the court for a Knife Crime Prevention Order)*

Defendant name:

Address:

Date of birth:

that if you are convicted of one or more relevant offences with which you have been charged, the prosecutor intends to apply to the court for a Knife Crime Prevention Order to be made against you.

If you are under 18 years of age when the application is made the prosecution must consult the youth offending team about the proposed order.

2. THE TERMS OF THE ORDER the prosecutor wants the court to make are:

The defendant must not: *(prosecutor to specify here the prohibitions sought)*

- 1.
- 2.
- 3.
- 4.

The defendant must: *(prosecutor to specify here the requirements sought)*

- 1.
- 2.
- 3.
- 4.

3. Where a requirement(s) is/are proposed, the individual or organisation responsible for supervising the requirement is:

Name:

Address:

Contact details:

It is proposed that the evidence about the suitability and enforceability of the requirement is given in the following way:

4. The period for which the order is sought is:

(this period will be between 6 months and 2 years in duration)

5. The prosecution say that it is necessary to make the order:

- to protect the public in England and Wales from the risk of harm involving a bladed article,
- to protect any particular members of the public in England and Wales (including the defendant) from such risk
- to prevent the defendant from committing an offence involving a bladed article.

6. NOTICE TO THE DEFENDANT SERVED with this document:

If you are convicted, you will have an opportunity to explain to the court why you think the proposed order should not be made. (Written notice of any evidence you rely on needs to be served on the court officer and the prosecutor.)

7. Summary of the relevant facts.

8. Evidence in support:

The prosecution will rely on the following evidence, and attaches any evidence not already served:

- (a)
- (b)
- (c)
- (d)

9. Notice of intention to rely on hearsay evidence

THIS NOTICE is to tell you that the prosecution intends to rely on hearsay evidence in this application for a Knife Crime Prevention Order against the defendant.

TAKE NOTE, the hearsay evidence is that referred to at the following points above:

Item of hearsay evidence	Identity of the maker of the hearsay statement (or explanation if they are not identified)	Why that person will not be called to give oral evidence

10. Other material submitted in support of the application

Any other relevant material should also be identified and served (for instance, any draft exclusion zone).

11. Details of applicant

Signed

Prosecutor

Contact details:

Date

Details of Chief Officer of Police or Chief Constable

Name:

Contact details:

This notice and proposed application must be served, with the listed attachments upon which the application will be based, as soon as possible (in an appropriate case, without waiting for a verdict) on the court officer, the defendant and any person on whom the order would likely have a significant adverse effect.

Complaint to vary, renew or discharge a Knife Crime Prevention Order

Section 27 Offensive Weapons Act 2019

IN THE [XXX] MAGISTRATES' COURT

Court Ref. No:.....

Date:.....

Please mark appropriate box:

- Complaint to vary
- Complaint to renew
- Complaint to discharge

Please mark appropriate box:

- An Interim Knife Crime Prevention Order
- A Knife Crime Prevention Order

Made on:by:Magistrates' Court

1. Applicant details

The applicant is *(please mark appropriate box)*:

- The defendant (S.27(2)(a) *Offensive Weapons Act 2019*)
- The Chief Officer of Police *(including an officer/staff member acting on their authority)* (S.27(2)(b) – (f) *Offensive Weapons Act 2019*)

Details:

Full name:

Email address:

Telephone no:

Address:

Postcode:

2. Defendant details *(Complete even if the applicant stated in Section 1)*

Surname:
.....

First name(s):
.....

Gender: Male.....Female.....Prefer not to say.....

Date of birth:
.....

Address:

Postcode:

Email address:.....

Telephone
no.....

3. Connection to previous order(s)

a) Please give the previous order(s) details and explain the connection between them and this complaint.

Original Court Ref.no	Date original Knife Crime Prevention Order was made	Name of court that made the Knife Crime Prevention Order to which this complaint relates	Connection to this Order

4. Matter of Complaint

a) Please provide details of the conditions imposed on the defendant:

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b) Briefly state reasons for your complaint to vary, renew or discharge a Knife Crime Prevention Order:

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Taken before me:.....
Choose an item.

Note: This complaint, including the supplement, must be served on the court for an authorised officer or the court to issue a summons. Following the issue of the summons, both the complaint, including the supplement, and the summons, must be served on the defendant in accordance with the Magistrates’ Courts Rules 1981.

Supplement to the complaint for a Knife Crime Prevention Order

Proposed Duration of Knife Crime Prevention Order/Interim Knife Crime Prevention Order *(please delete as appropriate)*

The order to last for...../until...../until further notice.

5. Proposed changes to existing Prohibitions/Requirements from Knife Crime Prevention order

The Applicant proposes for the following changes to the Prohibitions *(please specify below)*:

The Applicant proposes for the following changes to the Requirements *(please specify below)*:

Requirement	Supervisor (Person and/or organisation)
1.	
2.	
3.	
4.	

Note: It is important that any proposed positive requirement in respect of the defendant be such that the supervisor can monitor their compliance; in order to comply with their duty under s.22(5) Offensive Weapons Act 2019.

6. Supporting documents

This complaint is supported by documents listed in an index, marked XX/01.

7. Declaration

To the best of my knowledge and belief

- (a) this complaint discloses all of the information that is material to what the court must take into consideration when deciding on the complaint, including anything that might

reasonably be considered capable of undermining any of the grounds of the complaint;
and

(b) the content of this complaint is true.

Signed:.....

Date:.....

Appendix D - Defendant's Notice in response to a Knife Crime Prevention
Order application

**DEFENDANT'S NOTICE IN RESPONSE TO A KNIFE CRIME PREVENTION ORDER
APPLICATION**

R v

Case reference number:

In the

Magistrates' / Youth / Crown Court

To:

The Court Officer *(provide details of the court officer on whom this notice is served)*

.....

The prosecutor *(provide details of the prosecutor on whom this notice is served)*

.....

1. THIS NOTICE:

relates to evidence on which the defendant will rely in this application

relates to hearsay evidence on which the prosecution intend to rely: the defendant wants to cross-examine that witness

relates to hearsay evidence on which the prosecution intend to rely: the defendant wants to challenge the credibility or consistency of that witness

2. TAKE NOTE, the evidence on which the defendant intends to rely, and which is attached where it has not already been served, is as follows:

- 1.
- 2.
- 3.
- 4.

3. TAKE NOTE, the defendant wants to cross-examine the following witness(es):

.....

for the following reason(s):

Those served with this application have at least 7 days in which to make representations, including representations as to whether there should be a hearing.

4. TAKE NOTE, the defendant wants to challenge the credibility or consistency of the following witness(es):

.....

Any statement or other material relied upon is as follows:

- a.
- b.
- c.
- d.

If the party which served the hearsay evidence intends to call the witness to give oral evidence they must serve a notice of intention to do so not more than 7 days after the service of this notice.

4. Name and contact details of defendant:

Name:

Contact details:

Appendix E – Police submission to CPS Form

Police Submission to the Crown Prosecution Service for an On Conviction KCPO

Note – A draft Form KP3 (On Conviction KCPO Application) must also be submitted with the case file.

Defendant's name:

Address:

Date of birth:

URN:

Court and court date:

The following conditions are sought. The reason for this, and any evidence, in support is indicated against each:

Condition wording	Rationale and evidence	Oral evidence or hearsay, including reason	Details of requirement supervisor (individual or organisation)
		Prohibitions	
		Requirements	

Proposed duration of the order: *months/years*

Where witnesses give evidence, this should be in Section 9 format. An indication should be given as to whether it is proposed the witness give evidence. If it is not, a reason for introducing their evidence as hearsay will need to be given in a notice. The clearest reason in a post-conviction case is that the witness' evidence is not understood to be in dispute (this includes subject to minor editing) and therefore absent good reason their attendance should not be required. Provided they are clearly identified and referenced, police records may also be submitted: a PNC print, and where possible, material (for instance a crime report) explaining the underlying facts of the incident.