



Home Office

Statutory guidance to police on firearms licensing

Government response to consultation

Consultation Summary

The consultation sought views on draft statutory guidance for the police on firearms licensing, including proposed new arrangements for medical checks of applicants for firearms certificates. This consultation began on 23 July 2019 and ended on 17 September 2019.

Scope of consultation: this consultation sought public views on how best to ensure that the police carry out their firearms licensing functions in an appropriate manner. The Government conducted a consultation with the National Police Chiefs Council and the chief constable of Police Scotland, as required by the legislation, alongside this consultation.

Geographical scope: England, Wales and Scotland.

Draft guidance and impact assessment: Available at <https://www.gov.uk/government/consultations/statutory-guidance-to-police-on-firearms-licensing>

Introduction

Her Majesty's Inspectorate of Constabulary and Fire and Rescue Services (HMICFRS) carried out an inspection of police firearms licensing departments in 2014-15, including an assessment of whether police forces were following the existing Home Office "Guide on Firearms Licensing Law"¹. Their report, published on 15 September 2015, found that forces were not always following the guide, resulting in inconsistent application of the law². HMICFRS recommended the introduction of simplified guidance which carries the weight of the law to facilitate consistent application and enforcement by police, and that when applicants challenge a police decision to refuse or revoke their certificate, the courts should take into account the same considerations as the police.

The Government acted on these recommendations and the Policing and Crime Act 2017 makes provision for the Home Secretary to issue statutory guidance to the police on their firearms licensing functions. The police have a duty to have regard to the guidance when they exercise their firearms licensing functions. The new statutory guidance will apply to existing safeguards relating to firearms ownership, such as police background checks or the criteria around applicants with a history of domestic abuse. The guidance also contains arrangements for assessing the medical suitability of applicants.

The intention of the guidance is to ensure that the highest standards of public safety are maintained in the firearms licensing process, and to improve consistency between police forces and in court when licensing decisions are appealed. Firearms owners who pose no risk to public safety will continue to be granted firearm and shotgun certificates by the police.

¹ The guide, most recently published in 2016, is not limited to the police's role in assessing applications for certificates. It provides advice on a wide range of topics connected to firearms. The Government intends to continue to provide advice on these topics, separate from the statutory guidance. The guide is available at <https://www.gov.uk/government/publications/firearms-law-guidance-to-the-police-2012>

² "Targeting the risk: an inspection of the efficiency and effectiveness of firearms licensing in police forces in England and Wales", 2015. The report is available at <https://www.justiceinspectorates.gov.uk/hmic/ourwork/firearms-licensing>

The Policing and Crime Act 2017 and the Statutory Guidance

Section 133 of the Policing and Crime Act 2017 introduced a new section 55A to the Firearms Act 1968, which allows the Secretary of State to issue guidance to the police on their firearms licensing functions³. Police forces in England, Wales and Scotland must have regard to the guidance. They will have to be able to justify any departure in a particular case and will not be able to depart from the guidance because they disagree with its general approach.

An individual whose application for a certificate is refused by the police, or revoked at a later date, may appeal the decision in the Crown Court, or the Sheriff Court in Scotland. To ensure that both the police and the courts work to the same criteria in reaching their decisions, section 55A of the 1968 Act requires these courts to have regard to relevant aspects of the guidance.

Section 133 of the Policing and Crime Act 2017 is set out below.

Guidance to police officers in respect of firearms

(1) The Firearms Act 1968 is amended as follows.

(2) After section 55 insert—

55A Guidance as to exercise of police functions

(1) The Secretary of State may issue guidance to chief officers of police as to the exercise of their functions under, or in connection with, this Act.

(2) The Secretary of State may revise any guidance issued under this section.

(3) The Secretary of State must arrange for any guidance issued under this section, and any revision of it, to be published.

(4) A chief officer of police must have regard to any guidance issued under this section.

(5) Before issuing guidance under this section, the Secretary of State must consult—

(a) the National Police Chiefs' Council, and

(b) the chief constable of the Police Service of Scotland.”

(3) In section 44 (appeals against police decisions), after subsection (3) insert—

“(3A) The court or sheriff hearing an appeal must have regard to any guidance issued under section 55A that is relevant to the appeal.

³ <http://www.legislation.gov.uk/ukpga/2017/3/contents/enacted>

Summary of responses

1. There were 11,095 responses to the online survey. In addition, there were 1,038 letters or emails in which correspondents set out their opinions on the draft guidance⁴. We would like to thank everyone who took the time to respond to the consultation. For the open questions in the online survey (those which invited comment), and correspondence received by email and post, we considered the responses and identified the relative priority that respondents gave to key themes, as described below. Given the large number of responses to the consultation, the summary does not offer a detailed breakdown of all the comments received but tries to reflect the views put forward most frequently.

Characteristics of respondents to the online survey

2. Of respondents to the online survey, nearly all (99%⁵) said that they were responding as an individual, rather than on behalf of a business or other organisation.
3. 88% of respondents said they were primarily resident in England, 5% said they were primarily resident in Wales, and 7% in Scotland.
4. The great majority of respondents were firearm or shotgun certificate holders. 54% of respondents said they held a firearm certificate and 91% said they held a shotgun certificate. 23% said they were a gamekeeper or involved in pest control. 14% said they were involved in farming or land management. 61% said they were a recreational shooter. Only 2% of respondents said they were an advocate of gun control, and less than 1% said they were police officers or involved in law enforcement.
5. 191 respondents described a business or organisation that they were responding on behalf of. 26% were firearms dealers, 26% were involved in gamekeeping or pest control, 26% were from approved target shooting clubs and 17% were from recreational shooting businesses. Interest groups, professional and representative bodies also responded to the consultation, including shooting groups, gun control advocates and medical organisations. Of those who responded by letter or email, a large number were members of shooting associations and expressed support for the organisation's views.

Q6: To what extent do you agree that the new arrangement for medical checks will improve public safety?

6. Responses were as follows:
 - Strongly agree 8%
 - Tend to agree 23%
 - Neither agree nor disagree 18%

⁴ People who sent letters and emails may have also completed the online survey.

⁵ All percentages are the percentage of those who answered the relevant question in the online survey, rounded to the nearest whole number. In general, almost all respondents answered each "closed" question, with only around 2-3% of respondents skipping each question. Due to rounding, percentages may not add up to 100%. The proportion of respondents responding to the "open" questions (those that invite comments) was much more variable.

- Tend to disagree 24%
- Strongly disagree 28%
- Don't know 1%

Q7: To what extent do you agree that the police should not proceed to issue a firearm or shotgun certificate unless they have received the relevant information from the applicant's GP?

7. Responses were as follows:

- Strongly agree 10%
- Tend to agree 24%
- Neither agree nor disagree 10%
- Tend to disagree 21%
- Strongly disagree 34%
- Don't know 0%

Q8: To what extent do you agree that the new arrangements for medical checks represent an effective and efficient approach to ensure the police have the medical information they need before making a decision on the application?

8. Responses were as follows:

- Strongly agree 7%
- Tend to agree 21%
- Neither agree nor disagree 12%
- Tend to disagree 23%
- Strongly disagree 35%
- Don't know 1%

Q9: Do you have any other comments on the new arrangements for medical checks?

9. Around 5800 respondents made a comment in response to question 9⁶. As indicated by the responses to questions 6,7 and 8, there was some support for the inclusion of medical evidence in the process. Some respondents expressed support for use of the firearms marker as well as an increase in the validity of the firearm certificate to 10 years. However, there was widespread concern about the proposed process and the responses to question 9 reflected this.
10. Many respondents were concerned about the possibility that GPs would not respond to the process, and the possible delays that this might cause to their application. They commonly proposed that a duty should be imposed on the GP to respond.
11. Many respondents were concerned about the ability of GPs to charge a variable fee for the provision of information. In particular, respondents argued that the fee level should be set centrally and imposed throughout the UK. Another common proposal was for there to be no fee, or for it to the cost to be taken into account in the fee for a firearm or shotgun

⁶ 5997 respondents wrote something in the comments box, but in some cases it was not an answer, e.g. "none" or "no".

certificate. Respondents frequently argued that the cost of the proposals would be excessive and that the existing arrangements are adequate.

12. Respondents frequently questioned the capacity or ability of GPs to provide information or the fairness of the process if they did. Some respondents expressed concerns that the proposed medical arrangements would deter certificate holders from seeking medical help.

The draft guidance other than the new medical arrangements

Q10: Considering the draft guidance other than the new medical arrangements, are there any additional checks or processes that should be included in the statutory guidance to improve public safety?

13. Responses were as follows:

- Yes 11%
- No 69%
- Don't know 20%

If “yes”, please specify and give reasons:

14. Around 1,300 respondents made comments in response to question 10. Some respondents continued to give their views on the medical procedures. The most common proposals for additional checks or processes were for a requirement for applicants (in many cases, specifically first-time applicants) to demonstrate proficiency in the safe use of firearms. This included proposals for qualifications of various kinds, and for membership of shooting organisations.
15. Respondents also emphasised the importance or recommended the more frequent use of existing checks, particularly criminal records checks, contacts with referees, and home visits. Some respondents highlighted the importance of security checks or an interview by a Firearms Enquiry Officer (FEO) during the visit. Some respondents argued that the police should more frequently seek the views of members of approved shooting clubs and other shooters who know the applicant.
16. There were a small number of comments encouraging the wider use of one or other of the “additional checks” set out in paragraph 2.44 of the draft guidance, for example, interviews with family members or cohabitants, drug and alcohol checks, or checks of the applicant on social media.

Q11 Is there anything further that can be added to the guidance to achieve a more consistent approach between forces regarding their firearms licensing functions?

17. Responses were as follows:

- Yes 31%

- No 36%
- Don't know 34%

If “yes”, please specify and give reasons:

18. Around 3300 respondents made a comment in response to question 11⁷. The most common theme was criticism of variation in practice between police forces, and a request that practice be more consistent. A popular option was the introduction of a central licensing function to replace or augment the role of local forces. Again, many respondents re-iterated their view that the fees imposed by GPs for the provision of medical information should be set nationally, and that there should be a statutory obligation on GPs to provide the medical information.
19. Respondents were particularly concerned about the variation in the time taken by different forces to determine applications for certificates, and many suggested mechanisms to ensure consistent and swifter resolution of applications. These proposals included the imposition of service standards centrally on forces, and in some cases, sanctions or fines imposed on forces for breaching these standards.
20. There was also support for more funding and improved training for police Firearms Enquiry Officers, the national introduction of online applications (and other forms of digitisation), and greater consistency in the information required of applicants by forces.

Q12: To what extent do you agree that the draft guidance properly balances the interests of certificate holders and the need to preserve public safety?

21. Responses were as follows:
 - Strongly agree 5%
 - Tend to agree 22%
 - Neither agree nor disagree 28%
 - Tend to disagree 32%
 - Strongly disagree 15%

Q13: Do you have any other comments on the draft guidance?

22. Around 2100 respondents made comments on the draft guidance overall, ranging across various issues and often with diverging views. Most frequently, these comments reiterated opposition to the proposed medical arrangements and proposed introduction of a set fee and a requirement on GPs to provide the information. The draft statutory guidance includes reference to contact with an applicant’s neighbours in certain cases, or to finance checks, which were criticised by some respondents. The need to consult shooting organisations over the contents of the guidance was referenced by some. A number of respondents said that firearms legislation should be clarified or standardised to aid interpretation and consistency of approach.

⁷ 5997 respondents wrote something in the comments box, but in some cases it was not an answer, e.g. “none” or “no”.

23. Many respondents argued that the regulation of firearms and shotguns is sufficient without additional measures, although there was some support expressed for more stringent checks, for example, if there was an indication of domestic abuse or stalking. Some respondents said there should be less focus on licensed gun owners and more done to tackle the harm caused by illegal firearms.

Costs and benefits

Q14: Are any costs likely to arise as a result of the new medical guidance that are not taken into account in the impact assessment?

24. Responses were as follows:

- Yes 36%
- No 9%
- Don't know 55%

If “yes”, please specify and provide estimates where possible:

25. Around 2900 respondents made comments on costs. By far the most common concern was that the impact assessment had underestimated or not fully taken into account the costs of fees charged by GPs for the provision of information. Some respondents specified additional costs, such as the cost of attending appointments (although the proposed medical procedures do not envisage the need for applicants to attend consultations with their GP), and the possible cost of delays caused by the requirement for the police to see medical information.
26. Some respondents commented on the difficulty of switching GPs, especially in rural areas, if their GP was unwilling to provide information and costs arising as a result of this. Similarly, if the GP was unwilling to respond or was delayed in doing so, the cost of having to store guns with registered firearms dealers was raised. Some respondents referred to additional cost to the NHS through doctors undertaking the check for firearms applicants.

Q15: Are any benefits likely to arise as a result of the new medical guidance that are not taken into account in the impact assessment?

27. Responses were as follows:

- Yes 5%
- No 52%
- Don't know 43%

If “yes”, please specify and provide estimates where possible:

28. Around 500 respondents made comments on the benefits. The majority of those who commented said that the new medical arrangements could prevent unsuitable persons possessing licensed firearms, with some commenting that greater standardisation and clarity would result.

Government response to the consultation

29. The Government has carefully considered the responses given during the public consultation and has also noted the views of the police which were required by statute. This response and the guidance have been produced following close work between the Home Office and Department of Health and Social Care to reform and streamline the firearm and shotgun licensing process to ensure there are more consistent processes for the police, medical professionals and applicants.
30. In respect of the high level of opposition around the proposed medical arrangements, we have taken into account the views of the respondents together with those who have a close interest in the operation of those arrangements, such as the medical bodies. We noted the concerns which were raised and as a result of this engaged in further discussions with medical, shooting and police representatives. This has resulted in a number of amendments to the statutory guidance, reflecting the discussions.
31. It was decided that it will now be for the applicant to arrange for the relevant medical information to be submitted to the police from a suitably qualified GMC-registered doctor. The police will not issue a firearm certificate in the absence of the medical information about the applicant. This requirement is being brought in to protect the public by ensuring that the police have the information they need about an applicant's suitability before they issue a firearm certificate. Only relevant medical conditions are required to be disclosed and no other medical factors are needed. It remains the case that if a fee is charged by the doctor for the initial medical information this will be paid by the applicant.
32. A list of relevant medical conditions that the doctor should take into consideration when a person is applying for a firearms certificate is included in the statutory guidance. A standard proforma to be given to the doctor by the applicant for completion will be included in the firearm application form, so that there is national consistency over the information being requested from the doctor and provided by them.
33. As regards the enduring marker relating to firearms being placed on the applicant's medical record, the Government intends to strengthen the current procedure whereby a marker is added to an applicant's medical record by the GP on a best endeavours basis, to reduce the risk that detrimental developments in the certificate holder's condition are not notified to the police. Additional IT support for GPs relating to the relevant medical conditions is being developed to improve consistency and effective usage of the firearms marker system.
34. In respect of the non-medical aspects of the statutory guidance, changes have been made strengthening the language within it and, where necessary, making it more prescriptive. As a result of responses received during the consultation and the further discussions with police and shooting representatives, a number of additional changes have been made to the contents of the statutory guidance, including clarification of the procedures and checks which may be undertaken by police during the licensing process.

Next steps

35. We will publish the statutory guidance together with revised firearms application forms to reflect the changes in the medical arrangements which are introduced in the statutory guidance.