



Home Office

Statutory guidance to police on firearms licensing

Government consultation

This consultation begins on 23 July 2019

This consultation ends on 17 September 2019

Scope of the consultation

Topic of the consultation: this consultation seeks views on draft statutory guidance for the police on firearms licensing, including proposed new arrangements for medical checks of applicants for firearms certificates.

Scope of consultation: this consultation seeks public views on how best to ensure that the police carry out their firearms licensing functions in an appropriate manner. The Government will conduct 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Draft guidance and impact assessment: Available at 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>

Basic information

To: This consultation is open to the public.

Duration: This consultation lasts for eight weeks and closes on 17 September 2019

Enquiries: firearmsconsultations@homeoffice.gov.uk

How to Respond: Information on how to respond to this consultation can be found on www.gov.uk

Responses should be submitted by completing the [online consultation form](#). Alternatively, the form can be downloaded as a Microsoft Word document and the response sent by email to firearmsconsultations@homeoffice.gov.uk

or by post to:

Firearms: Statutory Guidance Consultation

Serious Violence Unit
Home Office
5th Floor Fry Building
2 Marsham Street
London
SW1P 4DF

Additional ways to become involved: Please contact the Home Office (as above) if you require information in any other format, such as Braille, large font or audio.

After the consultation: Responses will be analysed and a 'response to consultation' document will be published.

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 will 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 violence. The draft guidance also contains new proposals on the arrangements for assessing the medical suitability of applicants.

The intention of the proposed guidance is to ensure 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.

This consultation seeks views from police forces, firearms owners, and the wider public on the contents of the Government's draft statutory guidance. The Government will consult the National Police Chiefs' Council and the Chief Constable of Police Scotland, as required by the legislation, alongside this consultation.

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.justiceinspectors.gov.uk/hmic/our-work/firearms-licensing>

Background

Firearms Ownership

Civilian firearms and shotguns are used for a wide range of legitimate purposes, for example, for recreational target shooting and hunting, and by farmers, gamekeepers and vets. As at 31 March 2019³ there were 572,488 shotgun certificates and 159,745 firearms certificates on issue in England and Wales. Some people have both a shotgun and a firearm certificate, and 591,302 people possess either a firearm or shotgun certificate or both. There were 3,408 firearms dealers registered by the police.

The role of the police in assessing applicants for firearm and shotgun certificates

The police assess applications from individuals and dealers for possession or trade in civilian firearms and shotguns. Section 27 of the Firearms Act 1968 (the 1968 Act) states that: “A firearm certificate shall be granted where the chief officer of police is satisfied: (a) that the applicant is fit to be entrusted with a firearm to which section 1 of this Act applies and is not a person prohibited by this Act from possessing such as firearm; (b) that he has a good reason for having in his possession, or for purchasing or acquiring, the firearm or ammunition in respect of which the application is made; and (c) that in all the circumstances the applicant can be permitted to have the firearm or ammunition in his possession without danger to the public safety or to the peace”.

Section 28(1) of the 1968 Act states that “..a shotgun certificate shall be granted or, as the case may be, renewed by the chief officer of police if he is satisfied that the applicant can be permitted to possess a shotgun without danger to the public safety or to the peace”. A certificate shall not be granted if the chief officer of police ‘(a) has reason to believe that the applicant is prohibited by this Act from possessing a shotgun; or (b) is satisfied that the applicant does not have a good reason for possessing, purchasing or acquiring one.’

Police forces carry out a vetting process, including background checks, to assess whether applicants present a danger to public safety. They also have systems in place to identify when an existing certificate holder comes to police attention. Forces will refuse or revoke certificates where the applicant presents a danger. In 2018-19 police refused 233 firearm certificate and 745 shotgun certificate applications. The police revoked 376 firearms certificates and 1,116 shotgun certificates during the lifetime of the certificate.

Medical Checks

The police’s assessment of applicants and certificate holders includes their medical suitability. The firearm and shotgun application form requires applicants to declare any relevant medical conditions. Prior to changes introduced in 2016, the police might require sight of a medical report providing further detail about a medical condition that had been declared. There was

³ Firearm and shotgun certificates in England and Wales, financial year ending 31 March 2019
<https://www.gov.uk/government/statistics/statistics-on-firearm-and-shotgun-certificates-england-and-wales-april-2018-to-march-2019>

variation across the country over whether the applicant or the police would pay for the medical report. In 2016, new arrangements were put in place to improve information sharing between GPs and police. This followed extensive negotiations involving the police, medical representatives, shooting organisations, Government departments and other interested parties. Coroner and HMICFRS reports had found that there were weaknesses in the existing approach. For example, applicants could avoid medical scrutiny by failing to declare a relevant medical condition. They recommended that the medical arrangements should be strengthened to protect the public.

By the end of 2016 all police forces in England, Wales and Scotland were contacting every applicant's GP on grant or renewal to ask if the applicant had been diagnosed with a relevant medical condition and asking the GP to place a firearms marker on the patient's record to enable them to flag up with police any new medical issues which emerged following the grant of the certificate.

Following implementation, significant variation has arisen in England and Wales in relation to the response from GPs to the police request: some GPs do not charge fees at all, others charge fees of variable amounts, and some do not comply with the request. Reasons for not complying are reported to include a lack of expertise in mental health or a conscientious objection to private gun ownership. There is also inconsistency in how the police react if they do not receive the medical information requested. Some forces proceed to grant the certificate, while others do not grant certificates unless they have received a response from the GP. Since 2016 the practice in Scotland has been that police require sight of medical information in all cases before a certificate is granted. Her Majesty's Inspectorate of Constabulary in Scotland reported high participation levels by GPs in its March 2018 inspection report⁴.

Therefore, the Home Office considered what can be done to achieve greater consistency across England and Wales and to ensure that police have the medical information they need to assist with their licensing decisions. The Government's view is that it is important to ensure, as far as possible, that those who are in possession of firearms are medically fit, to safeguard the certificate holder themselves and other members of the public. The Government now proposes to state, in the statutory guidance, that the police should not grant certificates in the absence of medical information.

Scotland

Whilst the remit of HMICFRS only covers police forces in England and Wales, firearms legislation (with the exception of certain matters relating to air weapons) is reserved and applies equally to England, Wales and Scotland. Therefore, the new statutory guidance will apply in Scotland.

⁴ HMICS Inspection of Firearms Licensing, March 2018. The report is available at: <https://www.hmics.scot/sites/default/files/publications/HMICS20180306PUB.pdf>

The Policing and Crime Act 2017 and the Statutory Guidance

Section 133 of the Policing and Crime Act 2017 introduces 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 functions⁵. 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 will require 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.

⁵ <http://www.legislation.gov.uk/ukpga/2017/3/contents/enacted>

Summary of the draft guidance

The draft guidance is available at the following link:

<https://www.gov.uk/government/consultations/statutory-guidance-to-police-on-firearms-licensing>

Suitability checks

Chapter Two of the draft guidance sets out a proposed minimum standard for the checks to be completed on applicants for firearm and shotgun certificates before assessing their suitability according to the tests set out in the legislation. These include background checks against police systems and databases, home visits, referee checks, and additional checks where there is evidence of domestic violence or abuse. This chapter sets out the proposed new arrangements for the provision of medical information.

Assessing Suitability

Chapter Three sets out the proposed decision-making process when assessing suitability to possess firearms and shotguns or to be a registered dealer trading in these firearms in accordance with the tests set out in the legislation. It includes the factors to be taken into account, and guidelines on how to assess these factors. In particular, Chapter Three identifies the most serious factors that should be given the most weight, such as evidence of domestic violence.

Continuous assessment

Chapter Four sets out proposals for the continuous assessment of the continued suitability of certificate holders and registered firearms dealers to possess firearms, including a proposed requirement for the police to monitor intelligence systems for information about existing certificate holders and pay unannounced visits where necessary in response to intelligence.

Record-keeping, duration of certificates, and dealers

The draft guidance also covers the processes around record keeping (Chapter Five), the duration of certificates (Chapter Six), and additional safeguards relating to registered firearms dealers (set out in an annex).

Costs and benefits of the guidance

An impact assessment, available at <https://www.gov.uk/government/consultations/statutory-guidance-to-police-on-firearms-licensing> sets out estimates of the costs and benefits of implementing the revised medical arrangements in the statutory guidance, based on the best available evidence. The total costs of the new arrangements for medical checks, in present value terms over the 10-year appraisal period, are estimated at 43.1 million for applicants, with high and low estimates of £48 million and £38.3 million respectively. A further analysis will be published alongside the Government response to this consultation, taking account of any new information received. We have not attempted to quantify the benefits of the proposals to public safety, however there is a likely benefit to the public and law enforcement from improved public safety, as the medical guidance will reduce the risk of firearms being handled by unsuitable persons and therefore reduces the risk of injuries and fatalities from firearms.

Groups affected by this consultation

During the development of this consultation, the Home Office has given consideration to the impact it may have on groups sharing protected characteristics. There is no evidence to conclude that introducing statutory guidance in relation to the police's firearms licensing functions, as set out in this consultation paper, raises any specific issues in relation to: Age, Disability, Gender Reassignment, Marriage and Civil Partnership, Pregnancy and maternity, Race, Religion or belief, Sex, or Sexual orientation.

We will take account of the evidence gathered through this consultation in developing final policy proposals.

How responses to the consultation will be treated

The Department will process your data in accordance with the Data Protection Act 2018 and in the majority of circumstances this will mean that your data will not be disclosed to third parties.

The information you send us may be passed to colleagues within the Home Office, other Government departments and related agencies for use in connection with this consultation. Information provided in response to this consultation, may be subject to publication or disclosure in accordance with applicable access to information frameworks, primarily the Freedom of Information Act 2000 (FOIA) and data protection legislation.

If you want certain information you provide to be treated as confidential, please be aware that, under the Freedom of Information Act, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this you should explain to us why you regard any information you have provided as confidential. If we receive a request for disclosure of the information we will take due account of your explanation, but we cannot give an assurance that confidentiality will be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

Consultation

Respondent information

Q.1 Are you responding:

- As an individual? Please continue to **Q.2**
- On behalf of a business or other organisation? Please skip to **Q.4**

Individual respondents

In this section, we ask individual respondents to describe the nature of their interest in firearms to assist in analysing the responses.

Q.2 Are you primarily a resident of:

- England
- Wales
- Scotland
- Other (please specify)

Q.3 What is the nature of your interest in firearms regulation?

I am a.. (please tick all that apply)

Firearm certificate holder	<input type="checkbox"/>
Shotgun certificate holder	<input type="checkbox"/>
Gamekeeper or pest controller	<input type="checkbox"/>
Farmer, farm employee or land manager	<input type="checkbox"/>
Veterinary surgeon/nurse or zookeeper	<input type="checkbox"/>
Recreational shooter	<input type="checkbox"/>
Gun control advocate	<input type="checkbox"/>
Police or law enforcement officer	<input type="checkbox"/>
GP or other health worker	<input type="checkbox"/>
Prefer not to say	<input type="checkbox"/>
Other (please specify below:)	<input type="checkbox"/>

Please go to question 6 (medical arrangements)

Business and other organisations

Q.4 Where is the main location of your business or organisation?

- England
- Wales
- Scotland
- Other (please specify)

Q.5 What is the nature of your business or organisation?

Firearms dealer	
Game keeping or pest control	
Farming or land management	
Veterinary practice or zookeeping	
Recreational shooting business	
Approved shooting club	
Museum	
Gun control advocacy	
Police or law enforcement	
GP surgery or other health body	
Prefer not to say	
Other (please specify below:)	

Please go to question 6 (medical arrangements)

Medical Arrangements

Q6

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

- Strongly agree
- Tend to agree
- Neither agree nor disagree
- Tend to disagree
- Strongly disagree
- Don't know

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?

- Strongly agree
- Tend to agree
- Neither agree nor disagree
- Tend to disagree
- Strongly disagree
- Don't know

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?

- Strongly agree
- Tend to agree
- Neither agree nor disagree
- Tend to disagree
- Strongly disagree
- Don't know

Q9

Do you have any other comments on the new arrangements for medical checks? [max 150 words]:

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?

- Yes
- No
- Don't know

If "yes", please specify and give reasons [max 150 words]:

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?

- Yes
- No
- Don't know

If "yes", please specify and give reasons [max 150 words]:

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?

- Strongly agree
- Tend to agree
- Neither agree nor disagree
- Tend to disagree
- Strongly disagree

If you disagree, please specify and give reasons [max 150 words]:

Q13 Do you have any other comments on the draft guidance? [max 150 words]:

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?

- Yes
- No
- Don't know

If "yes", please specify and provide estimates where possible [max 150 words]:

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?

- Yes
- No
- Don't know

If "yes", please specify and provide estimates where possible [max 150 words]:

THANK YOU FOR YOUR RESPONSE

Next steps

This consultation invites views on the Government's draft statutory guidance to the police on firearms licensing.

The consultation runs for 8 weeks from 23 July 2019 to 17 September 2019.

Responses to the consultation will be analysed and a Government response to the consultation will be published.

Subject to the outcome of the consultation, it is anticipated that the guidance will come into force in late 2019. A final version of the guidance will be published on www.gov.uk and circulated to all forces.