

FIREARMS LICENSING

STATUTORY GUIDANCE FOR CHIEF OFFICERS OF POLICE

First edition

Contents

Contents	2
1. Introduction.....	3
2. Suitability checks	4
3. Assessing suitability	133
4. Continuous assessment	235
5. Record keeping	27
6. Duration of certificates and registrations	28
Annex: additional checks and assessments for Registered Firearms Dealers (RFDs).....	29

1. Introduction

- 1.1. The inspection of police firearms licensing by Her Majesty's Inspectorate of Constabulary and Fire and Rescue Services (HMICFRS) in 2014-15 highlighted the need for more consistency in the application of firearms licensing law by police forces and recommended existing Home Office guidance be put on a statutory footing. The Government accepted this recommendation and introduced a power for the Secretary of State to issue statutory guidance to chief officers of police through the Policing and Crime Act 2017. This amended the Firearms Act 1968 ("the 1968 Act").
- 1.2. Under section 55A of the 1968 Act, the Secretary of State may issue guidance to chief officers of police as to the exercise of their functions under, or in connection with, the 1968 Act. Chief officers of police in England, Wales and Scotland must have regard to guidance issued under this section and be able to justify any departure on a case-by-case basis.
- 1.3. This guidance covers the processes and criteria for assessing suitability to possess firearms¹ and to be a Registered Firearms Dealer ("RFD"). It is designed to assist chief officers in carrying out appropriate, proportionate and consistent checks and assessments in order to come to an informed decision.
- 1.4. Under section 44(3A) of the 1968 Act the court (or sheriff, in Scotland) hearing an appeal against a police firearms licensing decision must have regard to any guidance issued under section 55A that is relevant to the appeal.
- 1.5. This guidance is to be applied to all applications received, and licensing decisions made, on or after its publication, including reviews of suitability of existing certificate holders and registered firearms dealers.
- 1.6. This guidance sits alongside the non-statutory Home Office guide on firearms licensing law, and the College of Policing Authorised Professional Practice (APP) on firearms licensing. Whilst there is no legal duty to follow the Home Office guide or the College of Policing APP, these are provided to assist chief officers in interpreting the law and setting operational practices respectively.
- 1.7. This guidance does not apply to the licensing of air weapons in Scotland.
- 1.8. Police checks and assessments for licences administered by the Home Office or Scottish Ministers are subject to direct oversight by those bodies on a case-by-case basis, and do not come under this guidance. However, knowledge of the principles and processes that apply to firearm and shotgun certificates and RFDs may be useful to the police in carrying out those functions.

¹ The term "firearms" is generally used in this document to refer to all lethal barrelled weapons, including shotguns, unless a distinction is required, for example, to distinguish issues to do with firearms certificates as against shotgun certificates.

2. Suitability checks

- 2.1 This chapter sets out the checks that chief officers should complete to assess whether a person can be permitted to possess firearms without danger to the public safety or to the peace. The checks apply to the grant or renewal of a shotgun or firearm certificate, for certification as an RFD, or for the grant of any other licence issued by the police that authorises the possession of firearms. In the case of RFDs, these checks apply to the applicants or, if the applicant is a body corporate, to the officers of the company which applies to be registered.² This chapter also sets out additional checks that may be necessary in certain circumstances, and the checks to be carried out in relation to servants of RFDs.
- 2.2 This guidance sets out minimum standards to ensure a thorough and consistent approach to assessing the risk to public safety.

Background checks

- 2.3 Background checks are to be completed for every applicant who applies for either grant or renewal of a certificate or certification, unless checks were carried out within the last six months as part of continuous monitoring of existing certificate holders³.
- 2.4 All applicants should be checked against all local and national police databases, including the Police National Database, command and control systems, local intelligence databases, and national databases for serious organised crime and counter terrorism.
- 2.5 Where the applicant is a UK national and is known to have been resident outside the UK for a significant period (more than six consecutive months), a background check (criminal records check or equivalent) in the relevant country or countries should be completed. If not provided in English, an official translation should be obtained at the expense of the applicant.
- 2.6 Where the applicant is a foreign national, a background check (criminal records check or equivalent) should also be completed in the applicant's home country. Checks for EU nationals are carried out through the ACRO Criminal Records Office (ACRO), under the direction of the Chief Constable of Hampshire - International Services. For all non-EU nationals, the applicant should be required to provide a background check (such as a police certificate or equivalent) from their country of nationality and any other country where they have lived. This will be at the applicant's own expense, including an official translation in English. Similarly, an EU national who has been resident in a non-EU country for more than six months should be required to provide a background check for that period⁴; again, this should include an official translation.

² Applicants for an RFD grant or renewal should be subject to all the same checks as certificate applicants, with some additional requirements. Further guidance on the assessment of RFDs is in the Annex.

³ The term "certificate holder" is generally used in this document to include RFDs.

⁴ Further guidance is available on the POLKA Firearms Licensing web page, and at the following link: <https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

- 2.7 Where no background check is available, (whether for a foreign national or a UK national with a significant period of residence abroad), the application should be refused, unless there are exceptional circumstances. Exceptional circumstances may include, for example, long-term residence in the UK and/or in the British armed forces (twenty years or more) combined with the absence of any of the factors set out in paragraphs 3.8 and 3.9.
- 2.8 For foreign nationals and UK nationals with periods of residency abroad, the available background check may not be a criminal records check. For example, it may be a police certificate. In these cases, chief officers must determine the weight to be given to the document.
- 2.9 Where the applicant has been resident in another force area for a significant period (more than six consecutive months), a check against local intelligence records for that force should be completed.
- 2.10 Any previous applications in the last 10 years, including those made in another force area, should be checked for any relevant information or recorded concerns.
- 2.11 If an applicant's period of residency abroad or in another force area has been subject to a previous check, it does not need to be conducted again.
- 2.12 Any other background checks deemed necessary (such as those set out at paragraphs 2.43 - 2.44) should be completed.
- 2.13 If any new information comes to light as a result of background checks, for example, if the applicant's circumstances have changed materially since the original grant or last renewal, or if they are otherwise considered higher risk, for example, due to relevant information about behaviour or a medical condition, it is likely that more extensive enquiries will be necessary than if none of the above apply.
- 2.14 All records found relating to the applicant should be recorded on the case file. This will include instances where the applicant is a victim, witness or associate rather than a suspect. Assessing the relevance and weight of any records found is covered in Chapter Three.

Home visits and inspections

- 2.15 A home visit should always be carried out before granting a certificate to a first-time applicant.
- 2.16 Home visits should include an interview to discuss any issues relevant to suitability as set out in this guidance, permit the inspection of security arrangements, and allow the firearms enquiry officer to meet any other individuals living at the address. Guidelines on security are set out in the Home Office Security Handbook⁵.
- 2.17 If, following an application for renewal, it is determined that an inspection of security arrangements and other aspects of the home visit are not required (see paragraphs 2.55 - 2.56), an interview (if required) may be completed over the telephone or by email rather than by home visit.

⁵Available at <https://www.gov.uk/government/publications/firearms-handbook-2005>

- 2.18 RFD applicants should also be subject to an interview and inspection of their place or places of business and any place where guns are to be kept. An inspection should take place at both grant and renewal, regardless of the level of risk assessment. Guidance on RFD inspections is covered in the Annex.
- 2.19 Visits in connection with grant and renewal should always be made by prior appointment and take place at a mutually convenient time.

Referees

- 2.20 Applicants for firearms certificates are required to propose two referees. Applicants for shotgun certificates are required to provide one referee.⁶ Referees may be of any background, but should meet the following criteria:
- (i) resident in Great Britain;
 - (ii) has known the applicant personally for at least two years. This should require the referee having had some reasonable degree of contact with the applicant during that period,
 - (iii) is of good character⁷;
 - (iv) is not a member of the applicant's family⁸; and
 - (v) is not a serving police officer, a police employee, a Police and Crime Commissioner (PCC), a member of staff of a PCC, or a registered firearms dealer.
- 2.21 If the police consider that a referee is unsatisfactory they should invite the applicant to put forward an alternative person (or persons).
- 2.22 Before granting a certificate to a first-time applicant, at least one of the applicant's referees should be contacted. Referees may be contacted by telephone, email or home visit depending on the risk assessment. As a minimum, the referee should be made aware of the application, so that he or she has the opportunity to inform the police of any concerns. The referee may also be asked about any matter relating to the applicant's suitability to possess firearms.
- 2.23 On renewal of firearm and shotgun certificates, chief officers may determine whether it is necessary to contact referees.

Medical information from the applicant's GP

- 2.24 Chief officers should consider information provided by the General Practitioner (GP) of every person who applies for either the grant or renewal of a firearm or shotgun certificate, or to be registered as a firearms dealer, to assess any issues regarding medical suitability. If an applicant does not

⁶ RFDs are not required to put forward referees.

⁷ The police may carry out some background checks on the referee in order to determine his/her character.

⁸ 'Family' is taken to mean the following: wife, husband, mother, father, son, daughter, sister, brother, aunt, uncle, grandparent and in-laws or step relations as above.

have a GP in the UK they will not be able to fulfil the criteria to be issued with a firearm or shotgun certificate⁹.

Information sharing between the GP and police

2.25 The application form requires the applicant to declare relevant medical conditions. The police may approach the applicant's GP to obtain medical information both during the application process and at any time during the period of validity of the certificate if there are concerns about the applicant's continued fitness to possess firearms. The GP may seek the applicant's consent before disclosing their medical information.

Medical information required by the police

2.26 When a person applies for a firearm or shotgun certificate the police will ask the applicant's GP to:

- (i) confirm whether or not the applicant is or has been treated for any relevant medical condition which could affect their ability to possess a firearm safely; and
- (ii) place a firearm reminder code on the applicant's patient record and confirm that they have done so.

2.27 GPs should not be asked to give general access to an applicant's medical record. Nor should they be asked to either endorse or oppose applications. Responsibility for the decision about whether a person is suitable to be granted a certificate lies with the police, not the GP.

Relevant medical conditions

2.28 Relevant medical conditions include:

- (i) Acute Stress Reaction or an acute reaction to the stress caused by a trauma;
- (ii) suicidal thoughts or self-harm;
- (iii) depression or anxiety;
- (iv) dementia;
- (v) mania, bipolar disorder or a psychotic illness;
- (vi) a personality disorder;
- (vii) a neurological condition: for example, Multiple Sclerosis, Parkinson's or Huntington's diseases, or epilepsy;
- (viii) alcohol or drug abuse; and
- (ix) any other mental or physical condition which may affect the safe possession of firearms or shotguns.

⁹ Military personnel who are posted abroad and have an MOD GP may still be regarded as resident in the UK for licensing purposes.

Payment of a fee

2.29 In any case where the GP requests that a fee be paid in advance of responding to the police request for information, this is a matter between the applicant and his or her GP. It is not an issue that the police should become involved in.

If the GP does not provide the information requested the certificate should not be issued

I. If the GP declines to engage with the police

2.30 The provision of relevant medical information from an applicant's GP is necessary in order to determine the level of risk to public safety arising from the grant of a certificate. The certificate should not, therefore, be granted or renewed if this information is not provided. The police should follow the procedure set out below.

2.31 Following the initial approach to the applicant's GP, if the police receive no response within 21 days and it is not known why this is the case, the police should consider sending a reminder to the GP.

2.32 If a reminder is sent and the GP still fails to engage, the police should inform the applicant:

- a) that this is the case;
- b) that the application cannot be progressed in the absence of a response from the GP; and
- c) that the application will therefore be put 'on hold' pending receipt of the required information from the GP.

2.33 The application can be held for a period not exceeding six months, after which the applicant should be informed that it has lapsed.

II. If the GP has a conscientious objection to firearms

2.34 If the GP indicates to the police that he or she is unwilling to respond because they have a conscientious objection to the possession of firearms, the applicant should be encouraged to pass the request to another GP in the same practice, or in another practice where practical, who may be willing to respond to the request. In the unlikely event that no GP in the practice or local area is prepared to respond, the applicant may need to consider moving to a different GP practice. If they do not wish to change their GP practice, the applicant should discuss with the police whether it would be acceptable to obtain a copy of their medical information from the GP practice for consideration by the force medical officer or by a private GP.

III. If the GP indicates that there are medical issues

2.35 Where the GP indicates that there are relevant medical issues but does not provide further details, the police should ask the applicant to contact their GP

to obtain a report about these medical issues. If the GP requires a fee to be paid for providing such a report, this will be payable by the applicant. If, following receipt of the above report, the police have concerns about any of the medical information given or wish to obtain a more detailed report, they may request this from the GP or, if appropriate, a relevant specialist. The police should meet any costs associated with the provision of this additional report.

- 2.36 If the applicant has declared a relevant medical condition on the application form the police may ask the applicant to obtain and pay, if required, for a medical report to assist with their consideration of medical suitability. If a further medical report is required, the police will pay for this.

The role of Local Medical Committees

- 2.37 Good working relationships between the police and local GPs will help to ensure effective information sharing arrangements in the best interests of the efficacy of the local firearms licensing arrangements.
- 2.38 Engagement with the Local Medical Committee can help to secure a consistent set of arrangements in place across a local area within the context of the framework set out above. For example, if all parties are in agreement to developments or innovations that help to speed up application processes without compromising public safety, this is likely to be acceptable, provided that any variations from the processes described in this guidance are delivered on a voluntary basis, and that the procedures described here are adhered to if any concerns are expressed by the applicant.

Firearms reminder on the patient's record

- 2.39 The purpose of having a marker on the applicant's medical record is to provide a reminder to the GP to notify the police if a person begins to suffer from a relevant medical condition during the validity of their firearm or shotgun certificate or registration as an RFD. This is added to the patient's record by the GP on a best endeavours basis, to reduce the risk that such developments are not reported to the police.
- 2.40 There is no requirement for a GP to monitor or assess a patient who currently holds a firearms certificate, but there is a duty for a doctor to disclose information where they believe the patient may present a risk of causing death or serious harm to themselves or others.
- 2.41 It is open to a GP to approach the police at any time in order to pass on information of possible concern about an individual, whether a patient or not, who possesses firearms or is applying to do so. The GP would have to be satisfied that their public duty to express their concerns outweighs the normal requirements of patient confidentiality. It is good practice for the GP to inform the patient of their intention to provide information when a change in circumstances requires it.

Revocation, cancellation, expiry (without renewal) or refusal

2.42 The police should inform the GP within one month if a certificate is revoked or cancelled, if it expires and is not renewed, or if the application is refused. The GP can then remove the firearm marker from the patient's record.

Additional checks

2.43 Chief officers should carry out additional checks if, following the initial enquiries above, they believe them to be necessary to assess suitability accurately.

2.44 These checks may include, but are not limited to:

- (i) checks with other agencies, such as health professionals other than the GP, social services, probation services or multi-agency groups;
- (ii) checks with other licensing or regulatory bodies or enforcement agencies;
- (iii) a drug or alcohol test;
- (iv) credit or other financial checks;
- (v) information obtained from open source social media;
- (vi) interviews with individuals other than the applicant or their referees, for example, neighbours, partners or representatives of shooting clubs attended by the applicant;
- (vii) background or medical checks on partners or other individuals living at, or with unsupervised access to, the applicant's address; and
- (viii) checks where there is an indication of domestic violence or abuse, as set out in paragraphs 2.45 – 2.50.

Additional checks relating to domestic violence or abuse

2.45 Evidence of domestic violence or abuse is one of the most serious factors that should be taken into consideration in assessing an application (see paragraphs 3.24 - 3.25). The Government's definition of domestic abuse is as follows: 'any incident or pattern of incidents of controlling, coercive, threatening behaviour, violence or abuse between those aged 16 or over who are, or have been, intimate partners or family members regardless of gender or sexuality.'¹⁰ Where there is information indicating the possibility of domestic violence or abuse, an interview with the applicant's current partner or family member should be completed. Where known and proportionate, interviews with any previous partners should also be completed. These interviews should not be in the presence of the applicant.

¹⁰ The abuse can encompass, but is not limited to: psychological, physical, sexual, financial and emotional abuse. Controlling behaviour is a range of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour. Coercive behaviour is an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten their victim. This is not a legal definition.

- 2.46 Such interviews need to be conducted with sensitivity, and officers should take into account that a victim of domestic violence or abuse may be unwilling to speak openly with the police for fear of further violence or reprisals. Information provided during interview must be treated as confidential. Officers should have received adequate training so that they are aware of the indicators of domestic abuse, and how to support victims and keep them safe. They should be aware that there may be a need to take active steps to protect an applicant's partner, family member or ex-partner from reprisals. This is particularly important in the event that the person is interviewed in connection with the application and provides information which leads to a refusal or revocation.
- 2.47 An applicant's partner or family member is not required to give approval for the issue of the firearms certificate and this should be made clear to them. However, a request from a partner or family member that the applicant should not hold a certificate should be taken into account. The responsibility lies with the police to make the decision based on all the evidence available.
- 2.48 Checks with force domestic violence (or "public protection") units and Multi-Agency Safeguarding Hubs (or Multi-Agency Risk Assessment Conferences) should be made to ensure all current and past assessments are available to inform the licensing decision.
- 2.49 Chief officers may also consider obtaining medical records of partners or other family members, to assess whether there has been previous abuse.
- 2.50 Further checks with other acquaintances may be made as proportionate.

RFDs: servants

- 2.51 Applicants for registration as a firearms dealer are required (Form 116) to provide details of all servants who, by virtue of section 8(1) of the Firearms Act 1968 are or will be authorised to possess, purchase or acquire firearms and ammunition in the ordinary course of the applicant's business. RFDs are also required to provide details of servants if notifying the police of an additional place of business (Form 116A).
- 2.52 Police should complete background checks and any other checks deemed necessary for each servant.
- 2.53 If the police have reason to believe that the employment of a particular person poses a threat to public safety they should take steps, in compliance with data protection legislation, to inform the RFD, in general terms, that there is a concern.
- 2.54 It is for the RFD to make the final decision on suitability of servants. However, exercising due diligence over employees should be taken into account when assessing the RFD's suitability. Failing to act on a police recommendation about a servant without good reason will tend to show that the RFD is unsuitable.

Checks at renewal

- 2.55 Background checks and medical checks apply to renewals as to grants. Beyond this, it is a matter for chief officers to consider whether any additional checks are necessary (see paragraph 2.43).
- 2.56 Chief officers should consider applications for renewal on a case-by-case basis. However, it is likely that a chief officer would need to be satisfied of all the following criteria for an applicant at renewal to not require additional checks:
- (i) certificate held for at least two cycles (10 years);
 - (ii) resided at same address for at least two cycles;
 - (iii) not come to police attention adversely in the previous two cycles for matters other than minor road traffic infringements;
 - (iv) no acquisitions of guns or component parts in previous five years;
 - (v) no concerns regarding gun matters such as serial numbers;
 - (vi) no calls of an adverse nature to address in previous five years;
 - (vii) no intelligence suggesting criminality on behalf of certificate holder or associates;
 - (viii) no concerns received from GP; and
 - (ix) no concerns raised by referees.

Disclosure and Data Protection

- 2.57 Chief officers should ensure that information about applicants, servants, or other individuals subject to checks is processed in accordance with the provisions of data protection legislation and the Freedom of Information Act 2000.

3. Assessing suitability

A: General principles

- 3.1 The tests for the grant, renewal or revocation of a firearm or shotgun certificate under the 1968 Act are set out at the end of this Chapter. The main consideration should always be whether the applicant can be permitted to possess a lethal weapon without danger to the public safety or to the peace.
- 3.2 All the suitability criteria set out in this Chapter apply equally to firearms and shotgun certificates, to RFDs and to decisions over grant, renewal and revocation. There are some additional requirements for RFDs relating to business need, premises and practices, which are covered in the Annex.
- 3.3 Each case should be subject to a risk assessment, considering all the available information in line with the factors for consideration set out in this Chapter. The chief officer must additionally be satisfied that the applicant has good reason for possessing the firearms. General guidelines on good reason are included in the non-statutory Home Office guide on firearms legislation¹¹.
- 3.4 In limited circumstances, the law requires automatic refusal or grant (see paragraphs 3.41 - 3.43). There are also some factors, set out in paragraphs 3.24 to 3.25, that are sufficiently serious that their presence will usually result in refusal unless strong positive evidence is available to mitigate the risk.

Danger to public safety or the peace

- 3.5 A danger to public safety or the peace exists if the applicant's ownership of the firearm could result in harm to others or disturb good order in public. This harm or disturbance could result from the applicant's own conduct or from the conduct of others.
- 3.6 The applicant need not have been involved in any physical violence to be considered unsuitable. For example, abusive behaviour, a lack of self-control, recklessness, disregard for the law in other areas, or a reasonable likelihood that the firearm could be accessed by another individual who is unsuitable, may suggest that the applicant's ownership of the firearm could result in a danger to public safety or to the peace. Any link to terrorism or proscribed groups or organisations or organised crime may also suggest this.

B: Factors to be taken into account

- 3.7 The chief officer should, when assessing the grant, renewal, or revocation of a firearm or shotgun certificate or RFD registration, ensure that all the available information that may be relevant to the case is considered. The factors listed below should form the foundation for the chief officer's ultimate decision in relation to whether a danger to public safety or the peace exists.

¹¹ Guide on Firearms Licensing Law, available at:
<https://www.gov.uk/government/publications/firearms-law-guidance-to-the-police-2012>

The list is not exhaustive, and the police may use their knowledge of the individual case to identify other relevant information. It is acknowledged that all the information will not be available in every case, particularly where the initial checks in Chapter Two have not indicated any need for more detailed enquiries.

- 3.8 The previous criminal, or allegedly criminal, behaviour of an applicant may indicate a future or ongoing risk to the public safety or to the peace in the event that they were to possess a firearm. Information that may be relevant in indicating criminal or possible criminal behaviour will include (but is not limited to):
- (i) previous convictions, cautions and any other disposal, for any offence;
 - (ii) all overseas convictions and disposals;
 - (iii) arrests, police call-outs and bind-overs;
 - (iv) any civil orders the applicant has been subject to, for example Domestic Violence Protection Notices (DVPN) or Domestic Violence Protection Orders (DVPO), and compliance with those orders;
 - (v) evidence relating to criminal proceedings that resulted in an acquittal.
 - (vi) evidence, including intelligence, of any criminal behaviour where no charges, conviction or other disposal resulted; and
 - (vii) safeguarding assessments, including domestic abuse, stalking and honour-based violence (DASH) assessments or those made by multi-agency safeguarding hubs.
- 3.9 Other information that may be suggestive of the existence of a danger to the public safety or the peace includes (but is not limited to):
- (i) associations with known criminals or suspected criminals, including members of gangs or organised crime groups, or associations with terrorist or proscribed groups or organisations; or aggressive, abusive or anti-social behaviour or incitement to hatred against particular groups categorised by, for example, race, gender, disability, sexual orientation, age or religion;
 - (ii) evidence of dishonesty;
 - (iii) evidence of threatening or abusive behaviour;
 - (iv) evidence of anti-social behaviour;
 - (v) evidence of reckless behaviour, lack of self-control or restraint, or disregard for the safety of others;
 - (vi) indications that the individual will not handle the firearm responsibly;
 - (vii) insufficiently secure storage arrangements;
 - (viii) relationship difficulties or other domestic turmoil;
 - (ix) unmanaged debts, financial pressures, abnormal financial activity, or unexplained sources of income;
 - (x) relevant medical conditions including alcohol and drug abuse (see section D below);

- (xi) previous non-compliance with firearms certificate or other types of licences held; and
 - (xii) any of the above factors in relation to a person other than the certificate holder living at, or with unsupervised access to, the address or addresses.
- 3.10 In addition to the factors above, chief officers should consider any positive evidence supporting the application, for example, evidence of rehabilitation, change in circumstances, good character or a history of responsible ownership of firearms.

C: Assessment

- 3.11 In assessing whether or not the available information indicates a danger to the public safety or to the peace, the chief officer should assess:
- (i) the strength of the evidence;
 - (ii) the length of time since the incident took place (and the behaviour in the intervening period);
 - (iii) whether it is an isolated incident or part of a pattern of behaviour; and
 - (iv) the level of seriousness (see sections on “most serious and “other serious” factors below).
- 3.12 In certain circumstances (see paragraphs 3.41 - 3.43), the law requires automatic grant, refusal or revocation, without any further consideration.

Strength of evidence

- 3.13 More weight will always be attached to a conviction where the evidence has been tested in court. However, behaviour that has not resulted in a conviction will still be a key part of any consideration about suitability. This may be particularly important in offence types such as domestic violence or abuse where reporting rates are low.
- 3.14 Where information has not resulted in a conviction, chief officers should consider the credibility of the information. The applicant should be given the opportunity to comment on information about them which has not been tested by the courts, unless doing so may compromise an ongoing investigation, give rise to a risk of retribution, disclose confidential information about an individual other than the applicant, or reveal the identity of someone who has given information in confidence.
- 3.15 The test to be applied to assessing information regarding any behaviour or allegation that has not resulted in a conviction is the balance of probabilities. In other words, the chief officer should consider whether it is more likely than not to be true. Information that in itself does not meet that test may still be assigned weight when considered in the context of broader information, taking into account all the circumstances of the case.

Length of time

- 3.16 As a general rule the weight that should be assigned to past incidents or behaviour will diminish over time if there have been no further occurrences. However, this will depend on the nature and seriousness of the behaviour. A single serious incident in the past may be enough to demonstrate an ongoing danger to public safety in certain cases.
- 3.17 The age of the applicant at the time should also be considered. Less weight may be assigned if the applicant was under the age of 18 at the time of the incident.

Pattern of behaviour

- 3.18 Information or allegations relating to a pattern of behaviour should be assigned more weight than a single incident of the same type, particularly if the pattern shows escalation.
- 3.19 Chief officers may consider whether past behaviour has been linked to a trigger factor (such as alcohol use or the end of a relationship). The re-emergence of that trigger factor may indicate a higher risk, even if there is no ongoing pattern of behaviour.
- 3.20 Considering all the circumstances of the case, several relatively minor factors, may cumulatively indicate a danger to public safety. For example, evidence of domestic instability in combination with financial or alcohol issues or a relatively minor example of reckless behaviour might indicate a volatile environment and provide sufficient reason to believe there is a danger to public safety, even if one factor alone would not.
- 3.21 A past conviction for a single minor offence, for example a motoring offence, would not in itself be sufficient grounds for refusing an application.

Relevance

- 3.22 Chief officers should assess how relevant the information is to the applicant's ability to possess firearms without danger to public safety or the peace, bearing in mind the test set out in paragraphs 3.5 and 3.6 above.
- 3.23 For example, evidence of or information about dishonesty or bribery is likely to be more serious in relation to an RFD applicant's ability to trade without danger to public safety or to the peace, than it will be to an individual's ability to possess a firearm.

Most serious factors

- 3.24 There are some factors which, if the chief officer, having considered all the available information, reasonably believes to be present in an application, pose such a serious risk that the possession of firearms should only be allowed in exceptional circumstances.
- 3.25 Evidence (on the balance of probabilities – see paragraph 3.15) of behaviour or offences in any of the following categories (not an exhaustive list) will

usually mean that the certificate is refused or revoked unless exceptional circumstances can be demonstrated:

- (i) Affiliation or involvement in terrorism or proscribed groups or organisations; or aggressive, abusive or anti-social behaviour or incitement to hatred against particular groups categorised by, for example, race, gender, disability, sexual orientation, age or religion;
- (ii) affiliation with a serious organised crime group, or other involvement in serious organised crime;
- (iii) affiliation with a gang, or other involvement in gang activities;
- (iv) domestic violence or abuse;
- (v) any other violence or credible threats of violence;
- (vi) robbery or burglary;
- (vii) criminal use of firearms or other offensive weapons;
- (viii) sexual offences; and
- (ix) any of the above in relation to a family member or associate who lives at the address or has unsupervised access to the address.

3.26 Where evidence falls short of the balance of probabilities, it may still be taken into account alongside other factors as part of the general assessment.

Exceptional circumstances

3.27 Exceptional circumstances may be demonstrated if the applicant can provide positive evidence that they no longer pose a risk, for example, evidence of rehabilitation, change of circumstances, a long period of stability and law-abiding behaviour and evidence of good character.

3.28 There may be cases where a certificate is not refused or revoked despite the presence of one of the factors in paragraph 3.25 because an ongoing investigation could be compromised as a result. These decisions are a matter for the chief officer.

Other serious factors

3.29 In addition to the most serious factors above, evidence (on the balance of probabilities) of any of the following (not an exhaustive list) will tend to demonstrate a potential danger to public safety or to the peace:

- (i) any criminal offence that can be dealt with only on indictment;
- (ii) a series of convictions, cautions or other disposals, when one on its own would not be sufficient to justify refusal or revocation;
- (iii) deliberate failure to declare relevant convictions or medical conditions, regardless of whether the certificate would have been refused if the appropriate declaration had been made;
- (iv) failure to comply with firearms licensing requirements (in Scotland, including those relating to air weapons);

- (v) alcohol or drug abuse which could result in impairment of judgement or loss of self-control;
- (vi) relevant medical conditions, based on a case-by case assessment (see paragraphs 3.32 - 3.34);
- (vii) aggressive, abusive or anti-social behaviour of a nature that is likely to lead to harm, or fear of harm, in others;
- (x) any history of serious incidents involving firearms, or a careless approach to the handling of other dangerous items;
- (xi) behaviour indicating recklessness, loss of self-control or lack of regard for public safety or to the peace, for example, drink driving; and
- (xii) any of the above in relation to a family member or associate who lives at the address or has unsupervised access to the address.

3.30 Where evidence falls short of the balance of probabilities, it may still be taken into account alongside other factors as part of the general assessment.

3.31 There may be circumstances in which the applicant may possess firearms without danger to public safety or to the peace, particularly if the incident occurred well in the past. Having considered all the facts of the case, the chief officer will need to consider whether any mitigating factors or positive evidence reduces the danger to public safety or the peace.

D: Assessment of medical suitability

3.32 Relevant medical conditions are set out in Chapter Two (paragraph 2.28).

3.33 Chief officers should reach their own conclusions as to the significance of the medical information supplied based on their own knowledge and experience. While they may wish to seek advice from the force medical officer or an independent approved medical practitioner in cases where the medical information supplied is difficult to understand, or where its significance in terms of the possession of firearms is unclear, they should not consult specialists or consultants unnecessarily.

3.34 The fact that a person has received treatment for certain illnesses or conditions does not make them automatically unsuitable to possess a firearm. It is one of the factors to be considered with all other evidence relating to the applicant's character and history. In such cases, account should be taken of the latest medical opinion, and particular attention should be paid to whether this suggests that the condition is liable to recur or fluctuate or is unstable.

Mental health

3.35 Particular attention should be given to anyone who has previously been subject to a hospital order, guardianship order or restriction order under the provisions of Part 3 of the Mental Health Act 1983 following the commission of offences. It is important for officers to examine the nature of the offences and the length of the order in these situations. The Mental Health (Care and

Treatment) (Scotland) Act 2003 contains provisions covering similar situations.

- 3.36 The police should take into account any situations where applicants have been detained under the civil powers in Part 2 of the Mental Health Act 1983 where it is necessary for the health and safety of the person or for the protection of other people. (The Mental Health (Care and Treatment) (Scotland) Act 2003 contains provisions covering similar situations).
- 3.37 In all cases, the final decision as to the applicant's fitness, whether on medical or other grounds, should be taken by the properly authorised officer in the usual way.

E: Good reason

- 3.38 Guidance on good reason is provided in the non-statutory Home Office guide on firearms legislation¹².
- 3.39 Whilst the law allows for a firearms certificate to be revoked on the grounds that the original good reason for possessing a firearm no longer exists, a shotgun certificate may not be similarly revoked.

F: Outcome of assessment and final decision

- 3.40 If the chief officer decides it is likely that the applicant cannot possess firearms without danger to public safety or the peace, they should consider (in relation to firearms) whether any conditions can be applied which would mitigate that danger. Possible conditions are listed at Appendix 3 of the non-statutory Home Office guide, although chief officers of police may impose other conditions appropriate to individual circumstances. If no conditions can be found to mitigate the danger, the certificate should be refused or revoked.
- 3.41 Where information is sufficient to indicate a danger to public safety or to the peace, it will not usually be justified to reach a different outcome because of the impact on the individual's employment prospects, although a wider range of conditions may be applicable.
- 3.42 In relation to firearms certificates (but not shotgun certificates), there is an additional criterion of "fit to be entrusted with a firearm". Furthermore, a firearm certificate can be revoked where the chief officer has reason to believe that the holder "is of intemperate habits or unsound mind". There may, therefore, be limited circumstances where there is no danger to public safety or the peace, but the applicant is considered otherwise unfit to possess the firearm. However, in most cases it is likely that such evidence of unfitness, intemperate habits or unsound mind will have formed part of the assessment of danger to public safety or to the peace.
- 3.43 Decisions should be authorised at an appropriate level of seniority (see paragraphs 3.44 – 3.46 and the applicant notified of the reasons in the case of a refusal or revocation.

¹² Guide on Firearms Licensing Law, available at:
<https://www.gov.uk/government/publications/firearms-law-guidance-to-the-police-2012>

Automatic refusal and revocation (prohibited persons)

3.44 Section 21 of the 1968 Act prescribes when individuals are automatically prohibited from possessing firearms or ammunition, including antiques. The prohibited list is replicated at the end of this Chapter. An application from any prohibited person must be refused. If any existing certificate holder becomes a prohibited person, their certificates should be revoked.

Automatic grant (section 5 authority holders)

3.45 Under section 31(1) of the 1968 Act, a chief officer has no discretion to refuse a firearm certificate in respect of prohibited weapons or ammunition for which a valid authority exists issued by the Secretary of State or Scottish Ministers. Similarly, under section 34(3) of that Act, a chief officer may not refuse to register an RFD on the basis that they may cause a danger to public safety or to the peace where a section 5 authority has been obtained from the Secretary of State or Scottish Ministers.

3.46 Any concerns about applicants that hold an authority issued by the Secretary of State or Scottish Ministers should be notified to the Home Office or the Scottish Government as soon as possible to enable a review of the authority.

Authorising decisions

3.47 All decisions should include a full and documented assessment of all the evidence available and reasons for the final decision.

3.48 Chief officers should ensure high risk decisions relating to firearms and shotgun certificates and RFDs are approved, as a minimum, by the firearms licensing manager. In most cases high risk decisions should be approved by an officer or staff member senior to the firearms licensing manager with functional responsibility for firearms licensing. High risk decisions are those where applicants are allowed to possess firearms when:

- (i) an application for a certificate or RFD status is made following a previous refusal or revocation or surrender, including by another force;
- (ii) the applicant has been assessed as suitable, based on all the facts of the case, when there is evidence of any of the most serious or serious factors under paragraphs 3.24 - 3.29; or
- (iii) a decision is made not to revoke a certificate following a review of suitability triggered by evidence of any of the factors under paragraphs 3.24 - 3.29. This includes cases where firearms have been seized to allow such enquiries to be completed and a decision is made to return those firearms.

Serving and former police officers or employees

3.49 Where the applicant or certificate holder is a serving or former police officer or employee, chief officers should ensure that both the handling of the

application and the decision are overseen by a senior manager. Should a complaint or conflict of interest arise, or any evidence in relation to the factors set out in paragraphs 3.24 - 3.29, the matter should be referred to the Professional Standards Department for its advice.

Reasons for refusal or revocation

- 3.50 Chief officers should inform applicants, including RFDs, of each of the contributing factors in their decision to refuse or revoke a certificate, with reference to the evidence involved. It may be justified for the police to withhold some or all of the factors if they can demonstrate that disclosure would present a genuine risk, for example, to an ongoing investigation, if there is a risk of retribution, if the reason involves confidential information about an individual other than the applicant, or if disclosing the reason may reveal the identity of someone who has given information in confidence.
- 3.51 In the event of an appeal, the chief officer might consider an application for public interest immunity in these circumstances to avoid compromising an investigation or intelligence source.

STATUTORY TESTS FOR FIREARM AND SHOTGUN CERTIFICATES

[Note that these excerpts do not replicate the full legislation.]

Firearm (grant)

Section 27(1) of the 1968 Act:

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.

Firearm (revocation)

Section 30A(2) of the 1968 Act:

The [firearm] certificate may be revoked if the chief officer of police has reason to believe:

- (a) that the holder is of intemperate habits or unsound mind or is otherwise unfitted to be entrusted with a firearm; or
- (b) that the holder can no longer be permitted to have a firearm or ammunition to which the certificate relates in his possession without danger to the public safety or to the peace.

Shotgun (grant)

Section 28(1) of the 1968 Act:

Subject to subsection (1A) below, 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.

- (1A) No such certificate shall be granted or renewed 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.

Shotgun (revocation)

Section 30C(1) of the 1968 Act:

A shotgun certificate may be revoked by the chief officer of police for the area in which the holder resides if he is satisfied that the holder is prohibited by this Act from possessing a shotgun or cannot be permitted to possess a shotgun without danger to the public safety or to the peace.

PROHIBITED PERSONS UNDER THE FIREARMS ACT

Section 21 of the 1968 Act (extract):

(1) A person who has been sentenced to custody for life or to preventive detention, or to imprisonment or to corrective training for a term of three years or more or to youth custody or detention in a young offender institution for such a term, or who has been sentenced to be detained for such a term in a young offenders institution in Scotland, shall not at any time have a firearm or ammunition in his possession.

(2) A person who has been sentenced to imprisonment for a term of three months or more but less than three years or to youth custody or detention in a young offender institution for such a term, or who has been sentenced to be detained for such a term in a detention centre or in a young offenders institution in Scotland or who has been subject to a secure training order or a detention and training order, shall not at any time before the expiration of the period of five years from the date of his release have a firearm or ammunition in his possession.

(2A) For the purposes of subsection (2) above, "the date of his release" means—

(a) in the case of a person sentenced to imprisonment with an order under section 47(1) of the Criminal Law Act 1977 (prison sentence partly served and partly suspended), the date on which he completes service of so much of the sentence as was by that order required to be served in prison;

(b) in the case of a person who has been subject to a secure training order—

(i) the date on which he is released from detention under the order;

(ii) the date on which he is released from detention ordered under section 4 of the Criminal Justice and Public Order Act 1994; or

(iii) the date halfway through the total period specified by the court in making the order, whichever is the later;

(c) in the case of a person who has been subject to a detention and training order—

(i) the date on which he is released from detention under the order;

(ii) the date on which he is released from detention ordered under section 104 of the Powers of Criminal Courts (Sentencing) Act 2000; or

(iii) the date of the half-way point of the term of the order, whichever is the later;

(2B has been repealed)

PROHIBITED PERSONS UNDER THE FIREARMS ACT

Section 21 of the 1968 Act (extract continued):

(2C) Where—

- (a) a person has been sentenced to imprisonment for a term of three months or more, and
- (b) the sentence is suspended under section 189 of the Criminal Justice Act 2003,

the person shall not have a firearm or ammunition in his possession at any time during the period of five years beginning with the second day after the date on which the sentence is passed.

(3) A person who—

- (a) is the holder of a licence issued under section 53 of the Children and Young Persons Act 1933 or section 57 of the Children and Young Persons (Scotland) Act 1937 (which sections provide for the detention of children and young persons convicted of serious crime, but enable them to be discharged on licence by the Secretary of State); or
- (b) is subject to a recognizance to keep the peace or to be of good behaviour, a condition of which is that he shall not possess, use or carry a firearm, or is subject to a community order containing a requirement that he shall not possess, use or carry a firearm; or
- (c) has, in Scotland, been ordained to find caution a condition of which is that he shall not possess, use or carry a firearm;

shall not, at any time during which he holds the licence or is so subject or has been so ordained, have a firearm or ammunition in his possession.

(3ZA) In subsection (3)(b) above, "community order" means—

- (a) a community order within the meaning of Part 12 of the Criminal Justice Act 2003, or a youth rehabilitation order within the meaning of Part 1 of the Criminal Justice and Immigration Act 2008, made in England and Wales, or
- (b) a community payback order under section 227A of the Criminal Procedure (Scotland) Act 1995 (c 46).

(3A) Where by section 19 of the Firearms Act (Northern Ireland) 1969, or by any other enactment for the time being in force in Northern Ireland and corresponding to this section, a person is prohibited in Northern Ireland from having a firearm or ammunition in his possession, he shall also be so prohibited in Great Britain at any time when to have it in his possession in Northern Ireland would be a contravention of the said section 19 or corresponding enactment.

4. Continuous assessment

- 4.1 In addition to the checks at grant and renewal set out in Chapter Two and (in relation to RFDs) in the Annex, chief officers should ensure that processes are in place to allow continuous assessment of suitability to possess firearms or be an RFD between grant and renewal.
- 4.2 These processes may consist of either:
- (i) ensuring other parts of the force, including command and control and domestic violence (or “public protection”) units, systematically notify the firearms licensing department as soon as possible of any new intelligence or incidents involving certificate holders or RFDs whether by automated processes or manually; or
 - (ii) the firearms licensing department completing cross-checks of certificate holders and RFDs against all relevant local and national databases and intelligence systems on a regular basis (at least every 6 months).
- 4.3 As described in Chapter Two above, any new information, including intelligence or medical concerns, that could increase the level of risk associated with a certificate holder or RFD should trigger a review of suitability, following the principles set out in Chapter Three.
- 4.4 If any new information or intelligence is received relating to domestic violence or abuse, other violent conduct, or any of the other most serious matters, as described in Chapter Three, or any incident that results in the surrender or seizure of firearms a full review of the certificate holder’s or RFD’s suitability (and not merely the most recent incident) should take place immediately. New information or intelligence about other serious matters may also result in immediate review at the chief officer’s discretion.
- 4.5 Information about a certificate holder’s or RFD’s suitability may also be provided by members of the public known to the certificate holder or RFD, either directly to the force or its firearms licensing unit. All such reports should be investigated and recorded on the case file. If substantiated, a review of the continued suitability of the certificate holder or RFD should then take place. Reports made confidentially should be treated as intelligence and steps taken to ensure any inquiries or subsequent court proceedings do not reveal the source of the information.
- 4.6 Where there is evidence that a certificate holder or RFD presents a higher risk but is not considered to meet the threshold for refusal or revocation, home visits or inspections, interviews or other follow-up enquiries may be justified to ensure continuing suitability.

Unannounced visits

- 4.7 In the case of certificate holders, the police should undertake an unannounced visit or inspection where it is judged necessary to do so, based on specific intelligence in light of a particular threat, or risk of harm. It is not expected that the police will undertake an unannounced visit or inspection at an unsocial hour unless there is a justified and specific requirement to do so

on the grounds of crime prevention or public safety concerns and the police judge that this action is both justified and proportionate.

- 4.8 A power of entry, subject to warrant, is available to the police. While this is an important power, it will not be necessary in all cases where an inspection or home visit is required. It is expected that responsible certificate holders will co-operate with reasonable requests to inspect security arrangements or other aspects of suitability, and failure to do so may be taken into account when police consider suitability to possess the firearms. To mitigate any misunderstanding on the part of the certificate holder the police should provide a clear and reasoned explanation to the certificate holder at the time of the visit.
- 4.9 RFD's premises should be visited from time to time to inspect stock in hand and/or the register. Dealers are required by section 40(4) of the 1968 Act to permit such inspections by police officers or civilian officers, authorised in writing by the chief officer of police. Such written authorisation must be produced on demand.

Surrender or seizure of firearms or shotguns

- 4.10 Where chief officers have serious concerns about a certificate holder's continued access to firearms prompt action is to be taken to ensure no preventable harm is caused to public safety. This may involve the certificate holder being invited to voluntarily surrender their firearms pending a review of their continued suitability. If voluntary surrender is not possible, powers under the Police and Criminal Evidence Act 1984 (PACE) may allow firearms to be seized in appropriate circumstances. When firearms are surrendered or seized, ammunition and the certificate should also be seized.
- 4.11 Following surrender or seizure of firearms, a full review should be carried out. Should the review conclude that there is no danger to public safety or the peace, the firearms, ammunition and certificates should be returned, subject to the relevant authorisation (see paragraphs 3.44 - 3.45).

5. Record keeping

- 5.1 Chief officers should record the following on the relevant national firearms licensing database:
- (i) the nominal details of all applicants and certificate holders and the status of those certificates including firearms possessed;
 - (ii) any information relevant to the suitability of the applicant, including intelligence and allegations or concerns raised even if not proven;
 - (iii) the reasons for each grant/renewal decision, whether approval or refusal;
 - (iv) details of any review of suitability, including the reasons for the review and its outcome;
 - (v) details of any appeal, including the outcome;
 - (vi) details on storage of firearms;
 - (vii) dates of visits and inspections, and types of inspection (including RFD inspections);
 - (viii) whether a medical marker has been added by the GP (if known);
 - (ix) whether the certificate holder is an officer, former officer, or police staff or former police staff (if known);
 - (x) the outcome of any checks relating to periods of residence abroad; and
 - (xi) any other information the chief officer considers useful.
- 5.2 Records should not be deleted due to the applicant moving to another force area.
- 5.3 Records of applicants and certificate holders on the relevant national firearms licensing database should be kept up to date at all times, so that accurate information on possession of firearms is available to local police via the PNC.
- 5.4 For RFDs, in the event of a variation of a condition, removal from the register or surrender of a dealer's certificate of registration, an appropriate notification should be sent to all other forces.

6. Duration of certificates and registrations

- 6.1 Firearm and shotgun certificates last for five years (unless they are revoked). An RFD's registration continues in force for a period of three years from the grant of registration.
- 6.2 The onus for making a timely application for the renewal of a certificate or for a new certification as an RFD rests with the holder. Chief officers should issue reminders to holders sufficiently far in advance to allow the renewal process to be completed before the original certificate or registration expires. 12 weeks or more should suffice. Certificate holders may submit a photocopy (signed and dated) of their certificate for the purposes of renewal and retain the expiring certificate in order to be able to buy ammunition.
- 6.3 If no renewal application is received, enquiries should be made to confirm that the holder no longer has possession of the firearms or ammunition to which the certificate or registration relates, or if the certificate or registration has not yet expired, that arrangements have been made to dispose of the firearms and ammunition before expiry.
- 6.4 In the case of firearms and shotguns, section 28B of the 1968 Act provides for a certificate to be automatically extended for a maximum period of 8 weeks following the expiry of the certificate. This extension will apply when the application for renewal has been made at least 8 weeks before the original date of expiry of the certificate. The chief officer should endeavour to make a decision on the application for renewal in the extended period. In the event of an extension, the applicant will remain entitled to possess, purchase and acquire firearms and ammunition as per the conditions of the certificate. Chief officers should facilitate this extended entitlement by providing an applicant with evidence that the certificate benefits from automatic extension, for example by issuing an acknowledgement of receipt detailing the eligible application as "timely".
- 6.5 If a firearm or shotgun certificate expires before a renewed certificate has been issued and the certificate holder has made an application for renewal less than eight weeks before the date when the original certificate was due to expire, a temporary section 7 permit may be considered but should not be issued by default. Temporary permits should be supplied with an end date no longer than is reasonable to cover the expected period of processing and should not be issued if no renewal application has been received.
- 6.6 Certificate holders must not be asked to rely on an expired certificate or registration. It is unlawful for them to do so.
- 6.7 If an application for a variation is made within the timescales set out by the force for renewal applications (see paragraph 6.2), chief officers should process the application as they would a renewal. The fee for a renewal should be paid, rather than both a renewal and variation fee being charged. Variations requested at the time of renewal do not attract a fee.

Annex: additional checks and assessments for Registered Firearms Dealers (RFDs)

Inspections

- A.1 In addition to the checks in Chapter Two, a formal inspection of all the RFD's business premises where firearms could be held should take place for all RFD applicants on grant and renewal.
- A.2 During the three-year period of registration, further formal inspections or ad hoc liaison visits should take place, on average, at least once per year. Special attention should be given to the inspection of dealerships that involve prohibited firearms and the manufacture of firearms. These should be visited more regularly to ensure security and that all relevant conditions are complied with.
- A.3 Border Policing Command of the National Crime Agency conducts its own programme of inspections in relation to firearms import and export, which are carried out on a risk-assessed basis. Forces and Border Policing Command should, in order to minimise interference with legal trade and avoid duplication, arrange joint visits where possible.
- A.4 The inspection at grant or renewal should include, but is not limited to:
- (i) interviews that assess the applicant's suitability (see Chapter Three);
 - (ii) interviews that assess the applicant's expertise (see paragraph A6);
 - (iii) ascertaining those employees that have access to firearms ('servants') and assessing due diligence practices relating to employees or other individuals associated with the business who have access to the firearms, or involvement in activities relating to the firearms (see paragraph A7);
 - (iv) ascertaining the nature of the business, including its background, its customers and suppliers;
 - (v) ascertaining the financial stability of the business;
 - (vi) assessing compliance of business practices with the law and with licensing conditions;
 - (vii) inspection of the premises, to include security arrangements and discussion of any previous thefts (see paragraphs 2.15 - 2.19 and 4.7-4.9);
 - (viii) a full stock take (in the case of large dealerships, extensive dip samples can be used); and
 - (ix) inspection of record keeping, to include a check of transactions (see paragraphs A.11 - A.14).

- A.5 If the initial inspection reveals cause for concern, it may be necessary to carry out additional enquiries and/or to challenge the dealer's account. Such causes for concern include (but are not limited to):
- (i) inability to produce records for stock (firearms and ammunition);
 - (ii) a lack of systems for the management of firearms or ammunition stored at the registered premises;
 - (iii) firearms and/or ammunition being stored in such a way so as to make it difficult to account for them in the dealership's records;
 - (iv) a lack of systems in place to control unauthorised access to firearms or ammunition; and
 - (v) a lack of audit procedures for the accounting of component parts.

Expertise

- A.6 A reasonable level of experience and knowledge of firearms will be needed for an RFD to carry on business as a firearms dealer without danger to the public safety or to the peace. They should be able to demonstrate a basic knowledge of any firearms legislation relating to their particular sphere of business. If, for example, they are running a retail outlet, then it is reasonable to expect them to know of the scope of the Gun Barrel Proof Acts, which relate to the sale of firearms, and of the ages at which they may sell or let on hire firearms or ammunition. The assessment may best be conducted as a series of questions in a structured, planned interview.

Servants – notification and due diligence

- A.7 As set out in paragraph 2.51, RFDs are required to provide details of their servants on application. Failing to notify the police of the existence of any relevant servants, to take reasonable steps to check the suitability of such servants or to act on a police recommendation about a servant without good reason may indicate a danger to public safety or the peace even if the servant concerned is no longer employed.

Premises

- A.8 Each place of business at which the applicant proposes to carry on business as a dealer must be entered in the register of dealers.
- A.9 An RFD that wishes to open an additional place of business within the same police area must furnish the prescribed particulars as set out in the notification form at Part II of Schedule 5 to the Firearms Rules 1998. Provided there is no question of refusing or revoking the registration of the dealer, a chief officer may refuse to enter particular premises in, or remove them from, the register only on the grounds that it is a place in which the person cannot carry on business as a firearms dealer without danger to the public safety or to the peace.
- A.10 Where dealers have places of business in more than one area, they must be registered by the chief officers of each. Chief officers should consult each

other in cases of this kind; the conditions of registration should be appropriate to each premises but need not be the same in each police area.

Checking transactions

- A.11 A random sample of entries should be selected from the register for verification purposes. The number selected should be relative to the level of business being conducted, but should include:
- (i) sale or transfer of a firearm to a certificate holder within the police force area;
 - (ii) sale or transfer of a firearm to an RFD within the police force area;
 - (iii) sale or transfer of a firearm to a certificate holder outside the police force area; and
 - (iv) sale or transfer of a firearm to an RFD outside the police force area.
- A.12 The total number of transactions conducted by the dealer since the date of the previous inspection should also be recorded in order that the chief officer can satisfy themselves that this is consistent with the stated intentions of the dealer.
- A.13 RFDs may be expected to either refuse sale, or report to the police, any transactions about which they have concerns, whether relating to the suitability of the buyer or the intended use of the firearm. Failure to do so when a concern was clearly evident should be treated as a most serious factor (see paragraphs 3.24 and 3.25 above).
- A.14 Chief officers should provide advice on detecting and reporting suspicious transactions.

Assessing applications

- A.15 Chief officers should reject an application to register if they are satisfied that the applicant cannot be permitted to carry on business as a firearms dealer without danger to the public safety or to the peace. "Business need" is described below (see paragraphs A.21 - A.26). Automatic grant and refusal is set out in paragraphs 3.41 to 3.43.
- A.16 In considering an application to be entered on the register of firearms dealers, chief officers should assess the named officers of an application. This assessment should be conducted in the same manner as an assessment as set out in Chapter Three in order to assess whether registration would result in a risk to public safety or the peace. In addition, there are issues specific to trade or business involving firearms that will be relevant to assessing any risk to public safety. These include, but are not limited to, the matters at paragraphs A.6 to A.10.
- A.17 The police should identify the relevant factors on the basis of their knowledge of the case and assess the weight to be assigned to each, according to the strength of evidence, length of time, pattern and seriousness (see Chapter Three). Chief officers will need to consider whether the general suitability

factors, together with more specific matters, are collectively of sufficient weight to demonstrate that the applicant cannot be permitted to carry on business without danger to public safety or the peace. In addition to the public safety tests, chief officers will need to be satisfied of the RFD's business need (see below). This assessment will take into account the size and staffing of the business. These issues could also be relevant to public safety, given the potential vulnerability associated with small businesses, sole traders, and businesses operating from domestic premises.

- A.18 If the chief officer decides it is likely that the applicant cannot be permitted to carry on business without danger to public safety or the peace, they should consider whether any conditions can be applied which would mitigate that danger before making a decision to refuse (see paragraphs A.27 – A.30).
- A.19 An application to be entered on the register may be subject to automatic refusal under section 34 of the 1968 Act if the applicant has been subject to a court order made under section 45, following conviction of a relevant offence. This is in addition to the prohibition on granting a firearms certificate to a person prohibited under the Act from possessing a firearm, and section 21 of the 1968 Act which makes it an offence for a prohibited person to be in possession of a firearm.
- A.20 The final decision on RFDs is subject to the guidance regarding the appropriate level of authorisation and the provision of reasons for refusal set out in paragraphs 3.44-3.48.

Business need

- A.21 Section 34(1A) of the 1968 Act provides that the chief officer may refuse an application to be placed on the register if he is not satisfied that the applicant will engage in business as a dealer in firearms to a substantial extent or as an essential part of another trade, business or profession. 'Substantial' does not necessarily imply volume but should indicate a serious and genuine intention to engage in business. Each case must be decided on its merits.
- A.22 It is not intended that registration should be withheld because the turnover is comparatively small on account of a specialist service or a service directed at an exclusive section of the market. However, the dealer provisions should not be used to facilitate private collections of firearms and shotguns. Nor should they be used by a dealer to provide a service to friends and associates only, rather than to the general public or the gun trade or other trades which may involve firearms.
- A.23 A person who needs to purchase, possess or transfer firearms and ammunition as an essential part of another trade, business or profession should be registered as a dealer regardless of the extent of their transactions in firearms. Such applicants might include manufacturers of associated equipment or businesses engaged in research and development, journalism or research into firearms. In the latter cases, some documentary evidence will be required.

New applicants

- A.24 Factors which should be taken into account before reaching a conclusion about business likely to be conducted include (but are not limited to) the size

and location of premises for conducting the business proposed and the extent of any other business activities being carried on. The applicant should be able to show that they will be providing a service to the public or to the gun trade or other trades which may involve firearms or ammunition.

- A.25 The chief officer should normally expect to be provided with a business plan, indicating the nature of the business, which will assist the licensing staff to assess the proposed extent of trading or whether dealing in firearms will be an essential part of another business. Where a business plan is not appropriate, for example, in the case of applicants not intending to deal in firearms or ammunition for their principal livelihood and therefore less likely to 'engage in business as a firearms dealer to a substantial extent', the chief officer will want to review other available evidence regarding business need.

Existing applicants

- A.26 In respect of applications from existing dealers, it should be sufficient to reach a conclusion on the basis of transactions during the previous period of registration with particular regard to any trade in the recent past and any business plan for the future. A small number of transactions may be indicative of the business type (for example, a dealer specialising in older, heritage firearms, or in high value items) and should not in itself suggest that the business activity is not legitimate. The substantial extent test is therefore to be applied on a relative rather than an absolute basis in the context of the business under consideration.

Conditions of Registration

- A.27 A chief officer may impose, vary or revoke conditions subject to which registration is to have effect. In most cases it should only be necessary to impose the standard condition (i) (shown in Appendix 6 to the non-statutory Home Office Guide¹³). Other discretionary conditions are set out in Part 4 of the Firearms Security Handbook 2005¹⁴. Before reaching a final decision on which, if any, additional conditions should be imposed on a registration, it is desirable to discuss the matter with the RFD and to ensure that the proposed conditions, whilst being practical and effective, will not place an undue burden on the dealer.
- A.28 Any such conditions must be specified in the certificate of registration. Where a condition is imposed, varied or revoked during the currency of a certificate, the chief officer must give the dealer notice in writing, giving particulars. A chief officer, having given that notice, may recall the certificate of registration within 21 days for the purpose of amending it. This period of notice will allow time for any representations to be made to chief officers.
- A.29 Conditions should be used to ensure that an RFD takes reasonable precautions for the safekeeping of their firearms and ammunition. Crime prevention officers, in consultation with their firearms departments, should consider carefully the level of security required in the light of the circumstances of each case. Circumstances may vary between one district

¹³ Guide on Firearms Licensing Law, available at:

<https://www.gov.uk/government/publications/firearms-law-guidance-to-the-police-2012>

¹⁴ Firearms Security Handbook, available at:

<https://www.gov.uk/government/publications/firearms-handbook-2005>

and another and between one dealer or premises and another. Much will depend on the degree of risk and the steps that it is practicable to take. Such a condition must not be used to arbitrarily restrict the nature of the business concerned. (Security requirements for dealers trading only in air weapons should normally be equivalent to level 1 from the Firearms Security Handbook 2005.)

A.30 Where a person deals only in one type of weapon or in a restricted range of weapons at the time of the application, it may be appropriate to include a condition to the effect that any change in the nature of the business should be notified without delay to the chief officer of police so that further safekeeping restrictions may, if necessary, be imposed. Such a condition should not be used to arbitrarily restrict the nature of the business concerned.

STATUTORY TESTS FOR REGISTERED FIREARMS DEALERS (RFDs)

RFD (grant)

Section 34 of the 1968 Act:

- (1) The chief officer of police shall not register an applicant as a firearms dealer if he is prohibited to be so registered by order of a court in Great Britain made under section 45 of this Act, or by order of a court in Northern Ireland under section 8(5) of the Firearms Act 1920 or any enactment of the Parliament of Northern Ireland amending or substituted for that section.
- (1A) The chief officer of police may refuse to register an applicant unless he is satisfied that the applicant will engage in business as a firearms dealer to a substantial extent or as an essential part of another trade, business or profession.
- (2) Subject to subsection (3) below, the chief officer of police may refuse to register an applicant, if he is satisfied that the applicant cannot be permitted to carry on business as a firearms dealer without danger to the public safety or to the peace.
- (3) In the case of a person for the time being authorised by the Secretary of State under section 5 of this Act to manufacture, sell or transfer prohibited weapons or ammunition, the chief officer of police shall not refuse to enter his name in the register on the grounds that he cannot be permitted to carry on business as a firearms dealer without danger to the public safety or to the peace.
- (4) The chief officer of police, if he is satisfied that a place of business notified to him under section 33(3) of this Act by an applicant for registration is a place at which the person cannot be permitted to carry on business as a firearms dealer without danger to the public safety or to the peace, may refuse to enter that place of business in the register.

Conditions of registration

Section 36 of the 1968 Act

- (1) The chief officer of police may at any time impose conditions subject to which the registration of a person as a firearms dealer is to have effect and may at any time, of his own motion or on the application of the dealer, vary or revoke any such condition.
- (2) The chief officer of police shall specify the conditions for the time being in force under this section in the certificate of registration granted to the firearms dealer and, where any such condition is imposed, varied or revoked during the currency of the certificate of registration, the chief officer of police--
 - (a) shall give to the dealer notice in writing of the condition or variation (giving particulars) or of the revocation, as the case may be; and
 - (b) may by that notice require the dealer to deliver up to him his certificate of registration within twenty-one days from the date of the notice, for the purpose of amending the certificate.
- (3) A person aggrieved by the imposition or variation of, or refusal to vary or revoke, any condition of a firearms dealer's registration may in accordance with section 44 of this Act appeal against the imposition, variation or refusal.

RFD (Removal from register of dealer's name or place of business)

Section 38 of the 1968 Act

- (1) If the chief officer of police, after giving reasonable notice to a person whose name is on the register, is satisfied that the person--
 - (a) is no longer carrying on business as a firearms dealer; or
 - (b) has ceased to have a place of business in the area; or
 - (c) cannot be permitted to continue to carry on business as a firearms dealer without danger to the public safety or to the peace,he shall (subject to this section) cause the name of that person to be removed from the register.
- (2) In the case of a person for the time being authorised by [the Secretary of State] under section 5 of this Act to manufacture, sell or transfer prohibited weapons or ammunition, the chief officer of police shall not remove his name from the register on the ground that he cannot be permitted to continue to carry on business as a firearms dealer without danger to the public safety or to the peace.
- (3) If the chief officer of police is satisfied that a person registered as a firearms dealer has failed to comply with any of the conditions of registration in force under section 36 of this Act, he may remove from the register either that person's name or any place of business of his to which the condition relates.
- (4) If the chief officer of police is satisfied that a place entered in the register as a person's place of business is one at which that person cannot be permitted to carry on business as a firearms dealer without danger to the public safety or to the peace, he may remove that place from the register.
- (5) The chief officer of police shall cause the name of a person to be removed from the register if the person so desires.
- (6) If a person for the time being registered fails to comply with any requirement of section 33(5) of this Act, the chief officer of police shall by notice in writing require him to comply with that requirement and, if the person fails to do so within twenty-one days from the date of the notice or within such further time as the chief officer may in special circumstances allow, shall cause his name to be removed from the register.
- (7) A person aggrieved by the removal of his name from the register, or by the removal from the register of a place of business of his, may in accordance with section 44 of this Act appeal against the removal.
- (8) Where the chief officer of police causes the name of a firearms dealer to be removed from the register, he shall by notice in writing require the dealer to surrender his certificate of registration [and the register of transactions kept by him under section 40 of this Act] [(or, if the register is kept by means of a computer, a copy of the information comprised in that register in a visible and legible form)]; and it is an offence for the dealer to fail to do so within twenty-one days from the date of the notice:

Provided that, if an appeal is brought against the removal, this subsection shall not apply to that removal unless the appeal is abandoned or dismissed and shall then apply with the substitution, for the reference to the date of the notice, of a reference to the date on which the appeal was abandoned or dismissed.