

CONSULTATION RESPONSE

TO	Home Office
FROM	Independent Office for Police Conduct (IOPC)
REGARDING	Statutory guidance to police on firearms licensing

Our interest in this matter

1. The IOPC, formerly the IPCC (Independent Police Complaints Commission), came into existence in January 2018. The IPCC came into existence in April 2004.
2. We oversee the police complaints system in England and Wales and have a statutory duty to secure and maintain public confidence in it. We are independent, and make decisions independently of the police, government and interest groups. We investigate the most serious complaints and incidents involving the police across England and Wales, as well as handling certain appeals from people who are not satisfied with the way police have dealt with their complaint. For further information regarding our role, please see **Annex A**.
3. A number of our investigations have raised issues surrounding firearms licensing. We believe the experience and learning identified from these investigations will allow us to provide an informed response to this consultation.

Consultation questions

4. We have adopted the same numbering as on the consultation paper. The answers to questions 1 to 5 can be found in paragraphs 1 to 3 above and in Annex A.

Question 6: To what extent do you agree that the new medical checks will improve public safety?

5. We welcome the Home Office's consultation and its commitment to addressing issues within the current firearms licensing system. Our own investigations have raised concerns with the way in which medical conditions are considered by police when deciding to grant or renew a firearms or shotgun certificate. We believe introducing new medical checks is a positive step towards improving public safety, however the extent to which it will genuinely improve public safety is difficult to measure, particularly without further information. We have concerns over whether the new Statutory Guidance to Police on Firearms Licensing (the Guidance) goes far enough to

address some of the issues we have encountered during our own investigations. We will address these concerns below.

Question 7: To what extent do you agree that police should not proceed to issue a shotgun or firearms certificate unless they have received the relevant information from the applicant's GP?

6. We agree that the police should not issue shotgun or firearms certificates without a review of relevant medical information regarding the applicant's suitability.
7. Receiving a report from a GP should not be looked at as a 'tick-box' exercise and we would urge caution if the police decided to adopt a standard template or question set which may limit the GP to commenting on diagnosable conditions. The information gathered from the GP must be high quality information and explore wider issues the GP may be aware of such as relationship issues, caring responsibilities and consideration of the risk these pose to the license holder and their family.

Question 8: To what extent do you agree that the new arrangements for medical checks represent an effective and efficient approach to ensure the police have the medical information they need before making a decision on the application?

8. We understand the need to balance efficiency with the need for a robust and thorough system of checks. Given the potential consequences of issuing a certificate to a person not medically fit to possess one, thoroughness is of paramount importance. We hope the new medical checks will provide greater protection to the public and license holders (whose own safety should also be considered). In order for the system to work effectively, we believe there are some issues that need to be addressed (see our response to question 9 below).

Question 9: Do you have any other comments on the new arrangements for medical checks?

9. The medical checks rely on the GP having a decent understanding of the applicant, either from a long-term patient/doctor relationship or complete medical records. The days of having a 'family-doctor' are, for the most part, in the past. Today it is common for people to change GP surgeries and for them to see a different GP on each visit to the doctor's surgery. In these circumstances, there will be a reliance on complete medical records which the GP can use to review the applicant's medical history and highlight any areas of concern. However, this relies on the applicant having visited a GP regularly and recently. Where an applicant has not visited a GP on a regular basis or within recent times, it is unlikely the GP would have all the available information required to build an effective picture of the applicant's physical and mental health.

10. The Guidance states that, normally, the police must visit the home of the applicant prior to making a decision to issue or renew a firearms or shotgun certificate. Paragraph 2.17 of the Guidance states there are situations where a home visit from the police may not be required if considering a renewal of a certificate. The full list of conditions which must be met are listed in paragraph 2.56 of the Guidance but does not include a requirement for the applicant to have visited a GP regularly or within a specified time period, only that there are '*no concerns received from GP*'. This creates potential for a situation where police are satisfied to renew a certificate without visiting the applicant in person - with very little medical evidence or behavioural evidence factored into the decision.
11. The Guidance states that in absence of a home visit, checks may be performed over the phone or by email. Behaviour which may raise concerns to the police may be difficult to observe over the phone or by email. In the proposed guidance a medical report is only required upon application or renewal of a certificate, which, as stated in paragraph 6.1, requires renewal every 5 years. If the applicant has not visited a GP on a regular basis it may be that conditions such as frontotemporal dementia, which can cause rapid onset memory loss or behavioural changes in a very short space of time, will be missed. It is possible in these situations an applicant themselves will be unaware they have symptoms of this condition and, as a result, not declare it on the application form. Whilst it is right police are not asked to make medical assessments on applicants, a visit to their home may identify behaviours or concerns that would not be spotted over the phone or in an email. We therefore suggest that in situations where the applicant has not visited a GP recently and on a consistent basis, a home visit should always be conducted before deciding to renew a shotgun or firearms certificate. In addition, the Home Office may consider a requirement for an annual medical report to be submitted by the applicant, in order for their certificate to remain valid.
12. Paragraph 2.26 explains the medical information required from an applicant's GP, which according to 2.26 (i) must 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;*'. It may be considered the wording of 2.26(i) is too narrow and limits GPs to consider only those conditions for which the applicant has received a formal diagnosis, even if further medical examination might reveal information relevant to the decision to grant or renew a firearms or shotgun certificate.
13. Paragraph 2.26 and 2.39 discusses the use of a firearms 'reminder code' or 'marker', which the GP must place on the electronic patient record as a reminder to alert police to any relevant changes in the applicant's medical condition. We believe this marker is an important tool for GPs, as firearms licensing will not necessarily be something at the forefront of their mind when consulting with a patient. However, for this to be used successfully, it is important it is effectively and widely communicated to GPs, to ensure they understand how it works and when they should alert police. Different NHS trusts use different patient record systems; therefore, it is important that any

'marker' works across all systems and can be transferred seamlessly if the patient moves to a different trust area.

Question 10: 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?

14. Paragraph 2.20 states that an applicant should provide the names of two personal referees and, that the police should contact at least one of these when considering suitability of a first-time applicant. The Guidance states the referee should be of *'good character'* and background checks *'may'* be performed on the referee as a means of assessing their character. Officers may benefit from further guidance as to the situations when they should be performing background checks on referees and the nature and extent of these checks. Paragraph 2.23 states that it is for the Chief Officer to decide if a reference is required at the point of renewal. Limiting reference checks in this way requires careful consideration as a referee may be able to provide important information which is not captured on police intelligence systems.
15. The Guidance rightly covers issues of Domestic Abuse (DA) and the considerations police should make when making decisions on firearms and shotgun licenses where DA issues may be present.
16. Paragraph 2.45 of the Guidance requires the police to interview a 'current partner or family member' of an applicant where there is an indication of DA. We believe this section could benefit from further clarity – i.e. is it the family member of the applicant or of the partner? DA is not always overt and sometimes family members can see DA where the partner cannot. Consideration may also be given to interviewing an ex-partner, as even if a current partner has yet to experience DA, it does not mean to say there isn't a risk. A previous partner may be in a better position to provide information on this.
17. Paragraph 2.46 states officers should have *'adequate training'* on DA so they can be alert to the signs when conducting interviews. To what extent is the training mandatory and does it require refreshing? We feel this area could benefit from further clarity in terms of what is considered adequate training, in order to ensure a consistent approach across forces.
18. Paragraph 4.2 discusses the processes used for continuous assessment of suitability and proposes two methods that may be used. Of the two options, the first, systematic approach, where other parts of the force notify the firearms licensing department of new intelligence on certificate holders, is preferable. The Guidance states this could be a manual or an automated process. An automated system would likely reduce the risk of intelligence being missed but will likely have cost implications. The Home Office could usefully help forces with this by providing clear and explicit guidance on how implementing such a system can be achieved.

19. The Guidance covers surrender/seizure of firearms. Officers may benefit from a reminder to request the surrender/seize of any firearms or shotguns certificates at the same time.

Question 11: Is there anything further that can be added to the Guidance to achieve a more consistent approach between forces regarding their firearms licensing functions?

20. The IOPC has made several learning recommendations to police forces on the subject of firearms licensing. An undercurrent across these recommendations is officer awareness of how to effectively risk assess and also how to use their seizure/revocation/refusal powers.
21. A consistent training programme across all forces including regular refresher training is important to ensure officers of all forces follow and apply the Guidance in a consistent manner.

Question 12: To what extent do you agree that the draft guidance properly balances the interests of certificate holders and the need to preserve public safety?

22. Public safety when considering issues surrounding firearms must be of paramount importance and, as explained above, we do feel there are areas where the Guidance can be expanded to offer greater clarity to officers and improve public safety, whilst ensuring certificate holders are not unfairly penalised.

Question 13: Do you have any other comments on the draft guidance?

23. We are pleased to see guidance on the standard of proof to be applied (balance of probabilities) when assessing various suitability factors of applicants.
24. We welcome guidance on the appropriate 'standard of proof' to use when assessing suitability. Our own investigations have raised issues where license holders, under criminal investigation, have been permitted to retain their firearms license as their suitability was assessed using the criminal standard of proof. We believe the Guidance adds much needed clarity and will afford greater protection to the general public.
25. We look forward to reading the published guidance.

IOPC

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Annex A – The IOPC and its remit

26. The IOPC, formerly the IPCC (Independent Police Complaints Commission), came into existence in January 2018. The IPCC came into existence in April 2004.
27. The IOPC oversees the police complaints system in England and Wales and has a statutory duty to secure and maintain public confidence in it. We are independent, and make decisions independently of the police, government and interest groups. We investigate the most serious complaints and incidents involving the police across England and Wales, as well as handling certain appeals from people who are not satisfied with the way police have dealt with their complaint.
28. Over time our original remit covering police forces across England and Wales has been extended to include:
 - Police and Crime Commissioners and their deputies
 - the London Mayor's Office for Policing and Crime and his deputy
 - certain specialist police forces (including the British Transport Police and the Ministry of Defence Police)
 - Her Majesty's Revenue and Customs (HMRC)
 - staff who carry out certain border and immigration functions who now work within the UK Border Force and the Home Office
 - the National Crime Agency (NCA)
 - officers carrying out certain functions at the Gangmasters and Labour Abuse Authority (GLAA)
29. The majority of complaints against the police are dealt with by the relevant police force (or agency) without IOPC involvement. However, certain types of complaints and incidents must be referred by the police to the IOPC. These include where someone has died or been seriously injured following direct or indirect contact with police, as well as allegations of serious corruption, serious assault, and a criminal offence or behaviour liable to lead to misconduct proceedings which in either case is aggravated by discrimination on specified grounds. We then decide whether an investigation is necessary, and, if so, what level of involvement we should have in that investigation. We may choose to conduct our own independent investigation, manage or supervise a police investigation, or decide that the matter can be dealt with locally by the police.