



RESPONSE BY THE PCC TO HMIC INSPECTIONS OF CLEVELAND POLICE

INSPECTION DETAILS

Title of Inspection

Targeting the Risk - An Inspection of the Efficiency and Effectiveness of Firearms Licensing in Police Forces in England and Wales

Date Inspection Published

15 September 2015

Type of Inspection:

- Cleveland Specific
 Follow Up
 Partner Inspection

- National
 Thematic

Is Cleveland Police quoted in the Report?

Yes

No

EXECUTIVE SUMMARY

Firearms are lethal weapons. They can kill or seriously injure. In firearms licensing, the overarching consideration is public safety at all times. The way in which the police are required to undertake their firearms licensing responsibilities is set out in 34 separate pieces of legislation. These are supported by the Home Office guidance and by the College of Policing's guidance which is set out in its Authorised Professional Practice. This report sets out findings from fieldwork in 11 police forces supported by data from all 43 forces in England and Wales. HMIC observations are summarised below under the appropriate headings of inspection:

Governance Arrangements

HMIC were concerned to find that 3 of the 11 forces inspected were not meeting the requirements regarding the way in which the overall performance of their licensing departments should be assessed. HMIC found that only 4 of the 11 forces had effective monitoring and audit arrangements in place.

Capability and Capacity

In all 11 forces, HMIC found that a senior police officer from the chief officer team had been appointed to oversee the licensing arrangements. All firearms licensing staff interviewed understood the requirements of the Home Office guidance and the Authorised Professional Practice. The effectiveness and consistency with which the licensing arrangements are undertaken rely upon the skills of those with responsibility for carrying out the licensing function. While some training has been made available, HMIC are concerned at the continuing absence of nationally accredited training.

The Processing of Applications

Five forces took in excess of an average of 100 days to grant a section 1 firearm certificate, whereas 13 forces took an average of 40 days or less. For the granting of a new shotgun certificate, 18 forces took in excess of an average of 60 days, whereas 5 took an average of less than half this time. The overall time span for both firearm and shotgun applications ranged from an average of 5 to 165 days. With regard to the renewal process, the overall time span ranged from 1 to 100 days for firearm renewals and 1 to 96 days for shotgun renewals.

The Role of Referees

The role of the referee is particularly important for new licence applications where the police do not have previous knowledge of the applicant. Only 28 of the 43 forces contact referees in respect of the grant of a section 1 firearms certificate or a shotgun certificate. The number of forces who contact referees falls on renewal applications to 18 and 15, respectively.

Home Visits

In a survey of firearm certificate holders, all respondents reported that the police undertook home visits when they first applied for a licence. However, they had differing experiences of the way in which these visits were conducted. In the case of renewal applications, HMIC found that 32 forces undertook home visits in the case of section 1 firearms renewals and 23 in the case of shotgun renewals.

Unannounced Home Visits

It is essential that police undertake unannounced visits when they have the necessary intelligence to do so. HMIC were pleased to find that all forces stated that they would undertake visits when intelligence was received. It would appear that the police require the consent of the householder to enter the premises, even where they have intelligence that there may be a concern about the security of a firearm. The absence of a specific legal right of entry means that the police may not be able to carry out their responsibilities when they attempt an unannounced visit, if the householder refuses entry. This potential impasse is not in the best interests of the public. The Home Office should ensure that, in such cases, the law enables the police to fulfil their duty by inspecting the firearm, ammunition and the site where they are stored.

Expired Certificates

Seven of the 11 forces inspected stated they were experiencing backlogs in dealing with renewal applications. As a result, some certificate holders had experienced occasions when their certificates had expired, prior to the renewal being approved.

The Medical Suitability of Applicants

The Home Office guidance sets out the requirements for both the applicant and the police in respect of the provision and assessment of medical information for the purpose of a firearm licence. GPs are not obliged to respond to any police request for information about a potential firearms certificate holder. Nor is there any obligation on the GP to note the fact that his or her patient is a firearm certificate holder which may prompt notification of any medical condition that subsequently arises. These unsatisfactory arrangements leave fundamental gaps in the establishment of a safe and effective firearms licensing system.

At the time of publication, the Home Office is working at a national level to strengthen the arrangements by which GPs can share information with the police about those who may be medically unfit to have access to firearms. This is progress; however, HMIC are concerned to find that this requirement on GPs will not have any basis in law and that its effectiveness relies solely upon their cooperation. HMIC's concerns are reinforced by the results of a pilot scheme which suggest that a more structured and mandatory approach is required. At the very least the system should not allow licensing to take place without a current medical report from the applicant's GP, supported by a process whereby GPs are required, during the currency of a certificate, to notify the police of any changes to the medical circumstances (including mental health) of the certificate holder.

On-Going Risk Assessments

In the 11 forces inspected, HMIC found 7 had introduced processes meaning that every incident relating to the name or address of a firearm certificate holder was automatically flagged. This ensured that attending officers were informed of the possible involvement of a firearm. This is good practice which should be considered by all forces.

Decision making

All 11 forces inspected allowed decisions regarding the granting and renewal of certificates to be made by staff working within the firearms licensing department – usually the firearms licensing manager or a dedicated firearms licensing decision-maker. However, HMIC found that the role and rank at which decisions were made in respect of refusals to grant or renew or to revoke a certificate were less consistent.

Refusing or Revoking a Certificate

Approximately 1.5% of new applications for section 1 firearm certificates and 2.8% of new applications for shotgun certificates are refused. In addition, 402 section 1 firearm certificates and 1,377 shotgun certificates were revoked by police forces during the twelve months between April 2013 and March 2014. One of the main reasons to refuse or revoke a certificate is that the applicant or certificate holder cannot be permitted to possess the firearm without danger to public safety or to the peace. However, there is no definition, either in the Firearms Act 1968 or in the Home Office guidance to describe or explain how “danger to the peace” should be applied.

Public engagement

All the forces which HMIC visited recognised the importance of good public engagement and how this can contribute to the delivery of effective firearms licensing arrangements. However, HMIC found that not all forces demonstrated this in their level of investment or commitment to undertaking public engagement.

Improving the licensing arrangements

HMIC have identified three areas, which, if addressed, would make the licensing arrangements more effective:

1. simplifying the licensing process through digitisation;
2. introducing independent scrutiny of licensing decisions; and
3. enhancing the status of firearms guidance.

Learning from the Past

HMIC observed throughout the inspection that lessons from the past have not always been learnt, or if changes have been made, that they still allow for interpretation and variation in their application by forces. A clear conclusion is that forces have done little to implement changes independently. They have waited for a response to emerge at a national level, be that from the government or the overarching police group that has responsibility for firearms policy. A comprehensive response has not been forthcoming.

The Status of Guidance

The Home Office should review how the status of the guidance may be enhanced, in order to ensure that the police and, where necessary, the courts take into account the same considerations. The current Home Office guidance should be distilled into clear rules that chief officers should be obliged to follow. Those rules should carry the weight of the law and HMIC are encouraged by the fact that ministers in the Home Office have made rules under the Firearms Act in the past.

Conclusions

Notwithstanding concerns and criticism of those who are responsible for establishing, maintaining and following the current licensing arrangements, it is only right that HMIC state clearly and unequivocally that the vast majority of decisions concerning the grant, renewal, refusal and revocation of firearm licences are correct. They summarise the current position as follows:

1. the relevant firearms licensing arrangements are set out across a substantial number of statutes;
2. the Home Office guidance is too discretionary in approach;
3. in any event, it seems as though the courts may not be prepared to place weight on it when deciding cases; and
4. previous recommendations designed to strengthen the current position have not been implemented.

This is not a satisfactory situation and it cannot be allowed to continue. On too many occasions, the police are not following the Home Office guidance or the Authorised Professional Practice. And, the guidance and practice in many respects are inadequate, allowing room for interpretation and the creation of inconsistency in the way firearms licensing is undertaken within and between police forces. In many forces, basic scrutiny of the efficiency and effectiveness of their licensing

PCC RESPONSE TO FINDINGS

"Although Cleveland Police was not one of the forces inspected during the HMIC inspection into the efficiency and effectiveness of firearms licensing in police forces up and down the country, I have discussed the findings with Cleveland Police and have been satisfied that the appropriate guidance and measures are in place to protect public safety.

“In early 2014, the Force launched a review of nearly 4000 firearms licence holders in Cleveland to ensure that all individuals with firearms licences have been issued with them in accordance with current legislation and guidance. Since that launch, 67 licences have been revoked and refused, and firearms recovered. Of 26 appeals against these revocations, just four were upheld.

“Despite a recent increase in the firearms licensing fee, it remains the case that forces are effectively subsidising applications, due to the cost of administering the certificates and registering each licence not being covered by the licence fee.

“I wrote to the Home Secretary back in the summer of 2013 when the Home Office was conducting a review of firearms licensing fees. The fee was £50 then and had been since 2000.

“In my letter I pointed out that the cost to Cleveland Police of administering certificates and registering each licence was increasing year on year while revenue was shrinking. My suggestion to the Home Secretary was that PCC’s across the UK should be allowed to set fees to reflect local costs.

“In recent years the Comprehensive Spending Review has meant unprecedented cuts to the police service and therefore this shortfall is untenable. It is my view that the Government could do more to assist forces, who should be using funds to pay for more officers on the streets rather than subsidising firearms license applications.”