



## **Derbyshire Constabulary**

### **FIREARMS, SHOTGUNS AND AIR WEAPONS GUIDANCE**

#### **POLICY REFERENCE HLA**

**This guidance is suitable for Public Disclosure**

**Owner of Doc:** Head of Department, Criminal Justice

**Date Approved:** Formerly Standing Order A42

**Reviewed:** March 2008

**Next Review Date:** March 2011

#### **TABLE OF CONTENTS**

## **FIREARMS ACT 1968**

1. The principal legislation is the Firearms Act 1968, Firearms Act 1982, as amended by the Firearms (Amendment) Acts 1988, 1992, 1994 and 1997.

## **APPLICATION FOR GRANT/RENEWAL/VARIATION/PROCEDURES**

### **Firearms Administration Department**

2. The administration of firearm and shotgun certificates is a Headquarters based centralised and computerised function. Details of all firearm and shotgun certificate holders, together with weapons possessed, are recorded on the National Firearms Licensing Management System. (NFLMS). Details of such holders are also available on PNC. Further information can be obtained from Firearms Administration Department at Headquarters or Real Time Intelligence.

### **Prescribed form to be completed by applicant**

3. An applicant for the grant, renewal or variation of a firearm or shotgun certificate must complete and sign an application form setting out certain personal particulars and the reason for requiring the firearm and ammunition specified. It is an offence for an applicant to provide false information for the purpose of obtaining a firearm or shotgun certificate.

### **Firearms forms**

4. Application forms can only be obtained from Firearms Administration, Headquarters.

## **Applications by police officers**

5. When a police officer makes an application for the grant or renewal of a firearm or shotgun certificate or variation of a firearm certificate, enquiries into the application must be carried out by a Firearms Enquiry Officer and will only be approved by the Force Licensing Officer.

### **Records relating to firearms**

6. The National Firearms Licensing Management System (NFLMS) contains details of all firearm and shotgun certificate holders, registered firearm dealers and approved rifle and pistol clubs. In addition, a weapon index is maintained with the serial numbers of all firearms and shotguns registered.
7. Officers are reminded that when dealing with firearms/shotguns, which have been lost, stolen or recovered, it is their responsibility to ensure all appropriate checks are made. Stolen firearms must be circulated on PNC by the Officer.
8. It is imperative that serial numbers are correctly recorded. If there is any confusion between the serial and model numbers, it is important that both are checked.

## **REVOCAION OF FIREARM/SHOTGUN CERTIFICATES**

### **Order of the Court**

9. Courts have power under Section 52 Firearms Act 1968 to order confiscation or disposal of firearms and ammunition on conviction of an offence. They may also order the revocation of firearm and shotgun certificates held by the convicted person. In such cases, the Clerk to the Court must inform the Chief Officer of Police who issued the certificate of the Court's decision.
10. Where a Court invokes an Order for the confiscation and disposal of a firearm, shotgun or ammunition, a copy of the Order must be obtained and forwarded to Headquarters Firearms Administration. Arrangements for the disposal of weapons are the responsibility of the Divisional Property Officers.

#### Revocation by police

##### 11. (a) Firearm Certificate

A firearm certificate may be revoked by the Chief Officer of Police for the area in which the holder resides on the following grounds :

- if there is reason to believe that the holder is of intemperate habits or unsound mind or is otherwise unfitted to be entrusted with such a firearm; or
- if there is reason to believe that the holder can no longer be permitted to have the firearm or ammunition in his possession without danger to the public safety or the peace.
- if satisfied that the holder no longer has good reason for having in his possession the firearm or ammunition.
- if the holder is a prohibited person under the terms of Section 21, Firearms Act 1968.

##### (b) Shotgun Certificate

A shotgun certificate may be revoked by the Chief Officer of Police for the area in which the holder resides on the following grounds :

- if there is reason to believe that the holder can no longer be permitted to possess a shotgun without danger to the public safety or the peace.
- if the holder is a prohibited person under the terms of Section 21, Firearms Act 1968.

##### (c) Right of Appeal

A person aggrieved by a decision of the Chief Officer of Police to refuse to grant, revoke or vary a certificate may, in accordance with Section 44 Firearms Act 1968, as amended, appeal against the decision. The notice of appeal must be served on the Crown Court within 21 days of receipt of the letter notifying the decision and a copy must also be sent to the police.

12. Where a firearm or shotgun certificate holder comes to police notice, a report should be submitted immediately to Headquarters for the attention of the Force Licensing Officer outlining the circumstances of the incident and action taken. The suitability of the certificate holder to continue to hold a certificate and/or weapons will then be reviewed. This includes incidents where a certificate holder has been arrested for assault, violence, alcohol related offences (including drink/drive), drug offences or incidents of a domestic nature. Any incident, which could have a bearing on a certificate holder's suitability to possess weapons, is relevant.

13. Officers should also consider whether the circumstances justify the weapons being immediately seized. When weapons are taken into police possession the firearm and/or shotgun certificate must also be seized. If the shotgun certificate is not seized then that person can obtain shotguns without further authorisation.
14. Supervisors must ensure that Officers deal with incidents in an appropriate manner and take possession of weapons and certificates accordingly and that a report is submitted immediately. This is essential in the interests of public safety and, subsequently, police accountability.

## **SURRENDERED FIREARMS/SHOTGUNS/AIR WEAPONS AND AMMUNITION**

### General

15. Whenever firearms and ammunition are being handed in for destruction the person surrendering should complete form 163. It is essential that the officer receiving the firearm or ammunition confirms that the person surrendering is the owner or has a right to dispose of the property.

### Surrender Form 163

16. Where firearms and ammunition have been voluntarily surrendered to the police and a form 163 has been signed, these will not be disposed of until one month has elapsed from the date of surrender.
17. If the holder of a firearm or shotgun certificate does not wish to renew or retain the certificate and has disposed of the weapons and ammunition, the certificate will be forwarded to Headquarters, together with a report or letter from the certificate holder, explaining the circumstances. The report or letter will include details of persons to whom the weapons have been transferred.

### Police Officers not to acquire surrendered or confiscated weapons

18. Under no circumstances will any Police Officer, Special Constable or police staff enter into negotiations either on their own behalf or on behalf of any other person or through a third person, to acquire such property:
  - (a) when taking possession of a surrendered or confiscated firearm or ammunition, or
  - (b) when dealing with an enquiry whereby the owner/finder of a firearm or ammunition wishes to dispose of it.

### Examination of firearms.

19. Where a firearm or suspected firearm is found or otherwise comes into police possession it must be examined at the earliest opportunity by an ARV Officer to check or make safe the firearm before it is handled or moved. It will be treated as miscellaneous property and dealt with in accordance with Standing Order A54 'Found Miscellaneous and Lost Property' and guidance booklets "Firearms and Ammunition – Safe Working Practices" and "Surrender of Firearms into Police Possession". Both booklets are available on the Intranet.

20. All firearms/ammunition, which are found or seized, should have a red '**UNSAFE**' label (form 101) attached as soon as practicable by the police officer or member of staff taking possession.
21. The ARV Officer who will then, if appropriate, complete and attach a green '**MADE SAFE**' label (form 102).

#### Forensic Examination of Firearms

22. The Duty Inspector will make a forensic assessment based on the National Firearms Forensic Intelligence Database submission scoring matrix. The result of this assessment will determine whether the firearm needs to be forensically examined. Reference should be made to the "Surrender of Firearms into Police Possession" policy for further details.

23. Air Weapons.

The test firing of weapons to determine classification as either non-certificated air weapons or Section 1 firearms can only be undertaken on the firing range at Headquarters by a member of the Forensic Services Unit. Any Officer taking possession of an air weapon that requires assessment should adhere to the following submission procedure :

- all firearms must carry a green '**MADE SAFE**' label;
- the firearm must be submitted, by hand, to the Forensic Service Laboratory at Headquarters. Firearms must be kept separate from ammunition;
- any firearm bearing a red '**UNSAFE**' label, or no label, will not be accepted into the Laboratory.
- the relevant report/submission form will be completed upon receipt into the Laboratory.
- upon completion of the test firing the submitting Officer will be requested to collect the firearm at which time they will be given a written copy of the evaluation of the examination and advised of any further action that may be required.

## **REGISTERED FIREARM DEALERS**

### General

24. The Chief Officer of Police is required to maintain a register of all persons having a place of business as a firearm dealer in that police area. Following the provisions of the Violent Crime Reduction Act 2006, all retailers of low powered air weapons must also be registered. An applicant for registration as a firearms dealer must furnish the Chief Officer of Police with the prescribed particulars. The police shall not register an applicant if :
  - (a) they are prohibited under the Firearms Act 1968 from being so registered
  - (b) they are unable to continue business as a dealer in firearms without danger to the public safety or to the peace.
  - (c) the Chief Officer of Police is not satisfied that they will carry on a business as a dealer to a substantial extent or as an essential part of another trade, business or profession.

### Authority to inspect stock and registers

25. A firearm dealer is required to maintain a register and to enter in it all transactions in firearms and ammunition. They are required to keep records for 5 years. Firearm Enquiry Officers are authorised under the Act to enter a firearm dealer's premises to inspect stock and registers.
26. Firearm Enquiry Officers will visit firearm dealers' premises in their area normally every 12 months for the purpose of checking stock and registers or more often if there is any reason to suppose that slackness or irregularities exist. These checks should be arranged so that the dealer is not in a position to anticipate a visit.

#### Rifle and Pistol Clubs

27. The police have a power to enter and inspect rifle club premises. Firearm Enquiry Officers will visit rifle clubs normally every 12 months and consult with the responsible club officials to ensure that standards are being maintained. In any case where there is information that the conduct of club members or the standard of security has deteriorated to such an extent as to create danger to members of the public, a report should be submitted to the Force Licensing Officer in order that consideration can be given to reporting the matter to the Home Office. If justified by the evidence, the Secretary of State may withdraw approval for the club.

#### Security of Registered Dealers Premises and Rifle Clubs

28. It is essential that the premises occupied by firearms dealers and rifle clubs should be sufficiently secure, especially if weapons and ammunition are to be stored at the premises when they are unoccupied. Whenever new premises are to be constructed, it is important, in the cases where an armoury is featured in the plans, for a Divisional Business Crime Prevention Advisor to consult with the dealer and/or club officials and give appropriate advice, reporting when suitable security exists.

#### Clay Pigeon Shoots

29. Permission of the Chief Officer of Police is not required for holding clay pigeon shoots where all those shooting are holders of shotgun certificates. However, the Chief Officer of Police must approve clay pigeon shoots where non-certificate holders may attend under the terms of Section 11(6) Firearms Act 1968. Planning permission is required by any organisation where clay pigeon shoots are held on the same land on more than 28 days in any one year. Applications should be made to Firearms Administration. Enquiries will then be made by the Firearms Enquiry Officer as to suitability.

#### Visitors Firearm and Shotgun Permits

30. Application for a visitor's firearm or shotgun permit will be made by a sponsor to the Chief Officer of Police for the area in which the sponsor resides on the prescribed form. Application forms can only be obtained from Firearms Administration Department, Headquarters.
31. The sponsor may be a private individual or may make the application in the capacity of the representative of a club, shooting syndicate, country estate or national shooting organisation.

#### Safe handling of firearms

32. All Police Officers and Police Staff are authorised to possess firearms without holding a firearm certificate in the course of their duty. However, this should not compromise

safety and in all cases the assistance of an ARV Officer should be sought to ensure the safety of the weapon.

#### Licensing Officer

33. Firearms licensing is within the remit of the Criminal Justice Department and all matters relating to the administration of the Firearms Acts have been delegated to the Force Licensing Officer.

### **CERTIFICATE OF COMPLIANCE**

34. In the enforcement of these guidelines the Constabulary will not discriminate against any persons regardless of sex, race, colour, language, religion, political or other opinion, national or social origin, association with national minority, property, birth or other status as defined under Article 14, European Convention Human Rights (ECHR)

35. This document was updated in March 2008 within the guidelines of the Human Rights Act 1998. An Audit was carried out on the assumption that the guiding legislation is compliant with the Human Rights Act 1998.

36. Where there are areas of potential interference with individual rights under the Act, due regard has been given to issues of legality, legitimate aim, proportionality and fairness.

37. Subject to any new legislation or changes in case law, which requires immediate amendment, this document next requires revising in March 2011.