



Northern Ireland
Assembly

Committee for Justice

OFFICIAL REPORT (Hansard)

Firearms Legislation: DOJ and PSNI Briefing

18 June 2015

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Alastair Ross (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Mr Sammy Douglas
Mr Paul Frew
Mr Chris Hazzard
Mr Alban Maginness
Mr Patsy McGlone

Witnesses:

Mr Robert Kidd	Department of Justice
Mr Simon Rogers	Department of Justice
Chief Superintendent Stephen Cargin	Police Service of Northern Ireland

The Chairperson (Mr Ross): I welcome Simon Rogers, Robert Kidd and Chief Superintendent Stephen Cargin to the meeting. It seems that there may be positivity in the air on this issue. I do not want to speak too soon, but it would be good if that were the case. If you want to make a briefing, we will open up for questions afterwards.

Mr Simon Rogers (Department of Justice): Thank you, Chair. I hope that it is helpful to set our paper in context and to update the Committee, not least in light of the amendments tabled last week for Further Consideration Stage. Moreover, since our paper was circulated, the Department has had a lengthy meeting with the British Association for Shooting and Conservation (BASC), the Gun Trade Guild (GTG) and Countryside Alliance Ireland (CAI), which I believe that both sides would describe as constructive. In addition, the Minister met Mr Frew and Mr McGlone to discuss their amendments on firearms in the Justice Bill, which are also in the name of Mr Poots.

The amendments were not reached during Further Consideration Stage on Tuesday, as business was adjourned and they will, hopefully, now be debated on Monday. What I am about to say is obviously subject to the approach taken by the Members who tabled the amendments and, naturally, the will of the Assembly. However, I believe that a level of agreement has been reached on fees and bands, which should mean that the Department, subject to securing the necessary procedural and drafting approvals, will bring forward legislation in its next Bill. Fees can be dealt with separately through an order. The discussions have, therefore, led to changes in the Department's position as set out in the paper that was previously circulated.

The main changes are to remove the restriction on on-loan firearms in respect of the banded system and, following helpful discussions about how to ensure appropriate exchanges and safety concerns

are addressed, to permit exchanges on weapons that are licensed as dual-conditioned; in other words, for field and target use. The proposal is that this would require the training etc of dealers and club secretaries. We will need to settle the practicalities of and structures for that with the groups. The Minister has asked me to note that he will confirm that position, given the opportunity, on Monday during the debate on the Bill.

It is also my understanding that the shooting representatives accept the fees that the Department has proposed on the basis of the Business Consultancy Services (BCS) consultant's work. To summarise, it is possible, therefore, that, after the completion of Further Consideration Stage on Monday, we will be able to move forward on a broadly agreed basis on bands and fees. In respect of young shooters, there is an amendment tabled by the same Committee members for Further Consideration Stage, and we await the outcome of that.

I want to touch briefly on the paper that we sent to the Committee about the centre for information on firearms and explosives (CIFEx). When we were last here, members asked whether there had been a report from CIFEx. We subsequently received a letter that we have responded to. I would like to apologise if any misunderstanding arose from our comments on the matter. When we briefed the Committee, we sought to explain, as we thought we had indicated in prior correspondence, that we had engaged with CIFEx, the Firearms and Explosives Branch (FEB) and the police. Through that process, they had given us advice and shared documents, including tables on ballistic comparisons, and suggested how we should break up the bands in the tables. We did not, however, receive a report from them, and I certainly did not want to give that impression at the last session. The letter from our departmental Assembly liaison officer (DALO), which is in your packs, provides further detail and, I hope, clarifies the exact nature of the exchanges.

Finally, I move on to security specification, which has come up in the past. Again, we felt that there was agreement at our meeting from all parties to work to resolve this. As part of that, we agreed to look at, from the Department's perspective, the categories of dealer and the need to take account of the concerns expressed by some of the representative bodies about the impacts on business. Chair, that is a quick update, and, as always, we are happy to take questions.

The Chairperson (Mr Ross): Thank you. I look to my resident experts in this area and invite either one to go first.

Mr McGlone: Thank you very much, Chair, and thank you, Mr Rogers, for the recent focusing of minds on this. Could you clarify one thing for me? This was what was puzzling me, and I just want to get your answer on record. I mentioned the issue with CIFEx at the meeting with the Minister that you and I were at. I was given to understand — it is in Hansard — that there was a report. I take it there was not a report.

Mr Simon Rogers: We tried to explain last time that, while there was not a report, we did have exchanges with CIFEx. For example, they guided us on how to split the bands, and they provided us with some of the material that we sent to you. There was no report from them, to be clear, setting out the bands and the detail of them. We did have discussions with the police and, indeed, CIFEx, and the CIFEx representatives were available at two of the workshops to discuss the issues.

Mr McGlone: Just to be clear, there was no report.

Mr Simon Rogers: No.

Mr McGlone: The evidence that you are relying on is from the big book.

Mr Simon Rogers: From it, but also they guided us as to how to split the bands.

Mr McGlone: That clarifies matters. At the last meeting, people seemed to be dancing on the head of a pin. Now that has been clarified. When we met on Tuesday morning last, clarification was required from the PSNI — it is good to see you, Mr Cargin, and I thank you for your input — about the dual use of a similar calibre weapon, one used for vermin control and the other for target shooting. Could you give us again, please, just for the record, what the clarification was from the PSNI?

Mr Simon Rogers: I can give you the Department's perspective, but in a way you are asking me what the police think. From the Department's perspective, we have engaged with the chief superintendent,

and, given the extra steps that we are taking in training, which are entirely sensible and everyone agreed to, I think that all parties feel that we can move forward and alter the condition that we would have had on our proposal so that it mirrors the proposal that was put to you by the shooting organisations on 28 for that to be permitted, but in a way that ensures that club secretaries and dealers know what they are doing, so that we do not have situations arising where we have to take enforcement action against the dealer, which none of us wants. The clarification came back, to deal with your point, and the Minister will also deal with this, assuming that the amendments are moved on Monday to the Justice Bill.

Mr McGlone: Let me bring the chief superintendent in. Could you give that clarification for the record?

Chief Superintendent Stephen Cargin (Police Service of Northern Ireland): We have looked at it very carefully, and we believe that we can work in partnership with the dealers more and put a lot more responsibility on them and on the club secretaries. For example, when you come to do your exchange, we would expect you to arrive with a letter to the club secretary verifying that the calibre of weapon that you are going to do the deal for is fit for purpose, which means that the range in the club can actually use that. Then we will share the details from the different clubs with the dealers, giving the dealer a second opportunity to do the check. They will know from the information that we supply them with from different clubs that the club is actually fit for purpose for the weapon.

Mr McGlone: That makes perfect sense. Thank you for that.

Chief Superintendent Cargin: We believe that there is a good opportunity to work much more closely with dealers. We will provide training, along with the Department, and hopefully that will build better relationships.

Mr McGlone: It is good to hear that; it is very sensible. It makes sense from a public safety point of view as well as anything else.

For the record, are the bandings agreed now? Do people accept them? Do they make sense for the shooting organisations and stakeholders that you have engaged with more recently?

Mr Simon Rogers: Yes is the simple answer. I could expand on it, but that is the answer.

Mr McGlone: What about fees?

Mr Simon Rogers: It is not for me to speak for the shooting organisations, but my sense is that we agreed the fees at the levels that we proposed, which are slightly different from the fees that came to the Committee from the groups on the 28.

Mr McGlone: There are two items around dealers, one of which is the dealer's licence. I think that you referred to it at our previous meeting, but I want to get it on the record. That is for much lesser dealers in so far as they either do not have a huge stock of weapons or may not even hold any weapons. It may be more focused on the retention of bullets, cartridges and ammunition. Is that being considered in the frame?

Mr Simon Rogers: Yes. As part of the review of the security specification and the ministerial directive that sits alongside it, we will be looking at whether we need to introduce different "new" or "otherwise" categories, and we are cognisant of the fact that a small dealer should not need the same security spec or the same inspection as a large dealer. We do not want seven fees because of the administration implications, but we are minded to think that there may be a couple of categories of fee for the very small repair dealer that you describe or a large dealer who transacts in all types of firearms issues. We have said that we will look at that.

Mr McGlone: I have one final issue. It is a move to the other end of the spectrum to the large dealers and those who require more capacity to retain firearms because, in their circumstances, they did not have sufficient capacity, at any given time, to retain those. They had more demand than their capacity to retain.

Mr Simon Rogers: I covered that slightly cryptically in my opening remark by saying that we would look at the restraint on some dealers. We have been told that there are some issues where a dealer

has a number of firearms in stock that are sold and he then cannot bring in new firearms. We told the shooting organisations that we would talk about that and look at the evidence. We will not change the law for one case, but, if there is evidence, the last thing that we want is to restrain trade in dealers. We can look at how we can accommodate that.

Mr McGlone: That is grand. Thanks very much, gentlemen.

Mr Frew: At the outset, I want to say a big thank you to the officials in DOJ and the PSNI for working constructively over the last week with us and with the industry. Government works well when it is joined up, and we take cognisance of the industry's needs while, at the same time, managing the governance of any regulations and fee structures. So, a big thank you for that. I know that Patsy and Edwin will say the same. That reminds me, Chair, that I have to put an apology in for Edwin. I failed to do that at the start. We are really appreciative of the work that you have undertaken over the last week. I could turn negative and say that it has taken drastic action to get us here. As MLAs, we thought long and hard before putting down amendments that meant incorporating a brand new section into a Bill as late as Further Consideration Stage. We did not take those decisions lightly, but, at the same time, we knew that we needed to give you, as officials, and the industry as much time as possible to come to a mutual agreement. It meant that we had to put in the amendments. Since then, of course, things have become much more circumspect and pressurised. That seems to have done the trick in getting a resolution. I thank you very much for getting to that resolution, because I know that compromises were made by both sides on that.

I suppose that we are still in a phoney war, because we have not got to the debate in the House. The amendments are still sitting there. You have not the luxury of knowing that that passed on Tuesday, so there might well still be a bit of a sweat on. However, you can rest assured that the MLAs whose names the amendments are under will come to the table in the same spirit as the DOJ and PSNI came this week.

Some of the questions that I have about the documents may well be covered in the negotiations, to which I am not necessarily privy. You talk about a firearms licence application fee in paragraph 6, but then, in annexe A, you refer to a grant fee. If you are going to introduce a fee for applying for a certificate, which is different to what currently takes place, there is a fundamental there. From the knowledge I have, the level of refusals in Northern Ireland is about 1.2%. Do you agree with that?

Mr Robert Kidd (Department of Justice): It runs at between 1% and 2%.

Mr Frew: Wales is something similar, which tells me that there is not so much wrong with that system of application. However, the very fact that you are charging somebody to apply, as opposed to for the granting of a certificate, could skew or upload more cost onto the appeals system. If you have paid your money and you have been refused an application, you have nothing else to lose: you will go to appeal. However, if you are in the 1.2% and you have been refused the granting of a certificate, the chances are that it is for a good reason, so you do not appeal. If you have paid your money and put your whack in, you are going to do everything you can to get it back. I worry about that. I do not worry that it is 1.2% of people, but I am worried about the cost in another area, which is the appeals. Can you respond to that?

Mr Simon Rogers: The position on the application fee, at present, is that there is that percentage of cases which are turned down by the police, and the police are still doing the work to process those. At the end of that, an individual is sent back his cheque and a refusal. When we consulted on this, we asked whether that was right, because the police had still done the work and there is a particular issue — it is not the only issue — about repeat applicants who keep coming back. We would probably call them vexatious applicants. They keep coming back because there is no cost to them; the cost is to the police.

However, I take your point: we do not want to get £98 in for an application but discover that it costs us £5,000 — I am making up that figure — for an appeal. That is just not a cost benefit. We can take this away and reflect on it, but the reason for it is that the same amount of work, if not more, goes into refusing someone as goes into the grant of a licence. The police, and the public therefore, are otherwise subsidising that cost because, under the DFP framework, we cannot charge successful applicants, if we can call them that, for the cost of unsuccessful applications. We cannot spread that 1% to 2% across everyone else. It is one of those awkward areas, where we are going for an application fee to cover the cost but, if we do not cover it, the police are going to have to find some

way of meeting that, probably from efficiencies or something. Plus there is the discouragement of vexatious applicants. That is the reason for it.

Mr Frew: We are talking about 1.2% or 2%, depending on the actual figure. Is that really a burden? Obviously, you have had so many successful applications. You have had to do the work, of course, on the 1.2% of people who have been turned down. Surely the cost is not about a successful application or not. If the costs do not vary depending on the decision, 1.2% or 2% does not seem to be that much of a burden.

Mr Kidd: One of the issues is cost, but one of the other considerations when we put this out to consultation was the impact on the service. Obviously, the PSNI, as Simon said, has to run through that process. Every time that one of these vexatious applications, if I can call them that, goes through the system, it delays legitimate applications, so there is that impact in terms of time and staff resource as well.

Mr Frew: I can understand that, and that is a concern of mine and will obviously be problematic for you as officials. Not that I would want to plant a seed in your head, but surely there could be a compromise position where you have a nuisance applicant. Is there no mechanism there to charge an application fee for someone who is a habitual applicant?

Mr Simon Rogers: We discussed this briefly on Monday night with some of the shooting organisations, and, obviously, that would need statutory cover. I am not a draftsman, but one could come up with a model that said, "You have been refused. You cannot reapply within x period." That does not seem unreasonable, but the difficulty is if you were looking for x firearm and then you needed a shotgun. You might be refused because you forgot to send something in etc. This is a difficult conundrum. We are trying to get cost recovery for the police, and 1% or 2% is a significant enough amount of money for any organisation, I guess. That is what we were trying to recover. Your point that it may lead to more appeals is a fair one, and we would not want to inadvertently raise the cost to the system by putting that application in.

Mr Frew: I can understand if you had failed to add something to your application — a piece of proof, or whatever it may be that you need to complement your application — and it came back as a refusal because of a technicality. It would still be the applicant's responsibility to make sure that he had filled his form in correctly. A levy could be pursued that way, as opposed to from someone who has —

Mr Simon Rogers: I do not want to mislead on that. The chief superintendent might cover this. If someone had forgotten to put a form in, the police would not automatically reject it. They would try to make it be right. Equally, if you apply for something when you are demonstrably not going to get a firearm, that is the sort of case that we are thinking about where there should be a charge, because the police will have done a lot of work to process the case.

Chief Superintendent Cargin: The staff do use a lot of flexibility and have been very reasonable with people. If we have to chase something up, we generally will do that without being quite hard-nosed about it, to be frank.

Mr Frew: Can I put something else in your head? That is always dangerous, I know. If someone not from the shooting fraternity — someone who should not have access to a firearm — applies, is it not better that the police know that that individual is trying to apply? Is there not benefit out of that with regard to evidence-gathering and knowledge?

Chief Superintendent Cargin: I suppose there is, yes.

Mr Frew: Is that not in itself a benefit? If you have some undesirable trying to apply for a firearm, it is better that the police know about it rather than not know about it.

Chief Superintendent Cargin: Yes, it is useful that we know about it, but there is still a cost associated with processing those. The branch is heavily subsidised by the Chief Constable, so as much cost recovery as we can get to release money back to front-line policing is very helpful.

Mr Frew: On cost recovery, it seems to me looking in at the figures that the PSNI is one of the costliest constabularies in the UK on this sort of thing. That means that, when you do strive for cost recovery, it becomes a bit of a misnomer. Are there any plans, or what more can be done, to make

the fees branch of PSNI more efficient? If we are not more efficient and get our act together, the fees will always be burdened by that and impacted on by that, which means that the industry is impacted on by that.

Chief Superintendent Cargin: Certainly, there have been a number of reviews of processes. We are constantly reviewing our processes. At the minute, we are reviewing the process of the firearm enquiry officers (FEOs) in the districts. We are trying to streamline that because we have recognised that there are some significant issues relating to the processes — the multitude of different processes. We are looking at that to try and streamline it.

The UK services are looking at an e-commerce system and we will be looking very closely to see how that works out, although again there are significant costs associated with it. We will be very keen to see how all that develops and whether there is a system, somewhere down the line, that we can roll out with dealers and so forth that will make our processes much more efficient. We have looked at the systems that are in place and tried to make them as efficient as possible, given the systems we currently have.

Mr Frew: It is something that the Committee will have to look at as we go on. That is not a slight; it is just our job. Moving on to some of the detail of the fee structure, I think that at the minute everyone is in agreement about the granting of a dealer's certificate at £300, although I know that the industry said £380. In paragraph 6 of your package it states that you intend to review that. I know that is a figure that has been up and down. It has been bandied about a brave bit and has had a wide spectrum, I might add. I am worried that your intent and right to review that could make the industry worried about stability going forward, because I know that one of their main planks was stability. If we have to future-proof the figures because of inflation, let us do that, but let us keep it like that for five years so that we all know where we are. If you have this wide spectrum of figures going from £800 to £300 up to £800 and £300, you can see how the industry would be very nervous about the figure, after the review, going from £300 back up to £800, or even £600. I know that a review is a review and you cannot pre-empt that, but can you give us any assurance?

Mr Simon Rogers: I think there are a couple of things about that. One links to the comment I made earlier that we maybe need two fees in the dealer category: one for the very small dealers, who may actually find that there is a benefit out of this piece of work. The very reason we think more work needs to be done is because there is fluctuation in the time spent. Are all the costs that the police are putting in justified? Why is it a costly process compared with England and Wales? As a Department, we are required by DFP's guidance to seek to get cost recovery but, back to your point, it needs to be efficient cost recovery. That is why we think more work needs to be done. We would like to put an interim fee in and get it right. We will engage with the dealers — we sent it out to them on Monday — to get the right level for the fee, again using experts in BCS, who have brought some good work to the process.

It can be that fees need to be adjusted. Another area I am responsible for is Access NI. I am probably one of the few people who has been to the Committee to bring a fee down at one point, for Access NI. They can be adjusted in different ways. Our aim is not to be coming back. It is not in our interest to come back every year with a fee. When we look at this, we will certainly look at the fee as it is and try to maintain it for a reasonable period. Equally, we do not want to say that we will not be back for 10 years or five years, because that is just a risk.

Mr Frew: Yes, I understand that. However, in giving stability to the industry, it is a risk for them if things go up, especially if you have structured your business around a certain fee structure. What alarms me about this is that we are not talking about a £30 increase or a £5 increase; we are talking about hundreds of pounds of an increase. I know that it is for dealers and not licence holders, but how can you say on one hand that it is cost recovery at £800-odd but that you can settle for an interim fee at £300? It just seems to be such a large margin of difference.

Mr Simon Rogers: We have gone for £300 is because until we know what it should be, we do not think that it is appropriate to set it at a very high level. We have looked at the fee that has been introduced in England and Wales, which is the equivalent of £333 for the same period. To put it bluntly, we thought that we would give the dealers the benefit of a slightly lower fee. We have spoken to DFP, which has to approve anything we do on the fees, and we have persuaded it that it is a reasonable position to take.

Mr Frew: That raises a good point about the fees in GB. Surely it is better for DOJ to keep the pressure on the PSNI to meet a fee, as opposed to setting a fee for cost recovery now, knowing that it is the most inefficient constabulary in the United Kingdom. If you set a lower fee, you challenge the PSNI to go down to that fee.

Mr Simon Rogers: I did not say that the police were the most inefficient.

Mr Frew: No, I did.

Mr Simon Rogers: Yes, and the fees in England and Wales do not necessarily achieve cost recovery. I understand the point that you are making. We will challenge the police — as indeed, we know, will the shooting representatives — to justify whatever the fee is that we come up with. That is as it should be, but I cannot tell you today what the outcome of that will be. I can tell you that it will be a proper process and we will bring in BCS again to do it.

Mr Frew: As constituency MLAs, we get people complaining to us about the length of time that it takes for an application to be realised. It seems to be horrendous in some cases. Is there any commitment around these new fee structures that the turnaround will be quickened up? Whenever we try to obtain information as an MLA, there is no human face there; we do not get somebody to talk to and it seems like we are looking up at an ivory tower where decisions are made when they are made and we all just have to live with it. There may be a farmer or a sportsman at the other end waiting for a licence, and they have not got it.

Mr Simon Rogers: I am quite clear, as is the Minister, that cost recovery equals service provision. If the public are funding, in effect, the whole service, then — I know from talking to the chief superintendent and his predecessors that the police accept this — there will have to be a reflection in the processing times. I do not know whether Stephen can talk about those this afternoon, but there is no doubt that targets need to marry with a cost recovery process, wherever it is.

Chief Superintendent Cargin: We are certainly looking at that. We are looking at our processes, and I am taking an overview of the branch and having a really hard look at how we do our business to see how we can improve it. I am very conscious of criticisms and allegations about inefficiencies and so forth. Hopefully, people are starting to see that we are reaching out to them. We are listening to the dealers and trying to work more closely. We and the Department are listening closely and striving as hard as we can to make sure that we improve the systems in place. We are looking at publishing targets and being held accountable for them. We will continue to consult and have conversations about that, and we will try to publish those targets as soon as we can.

Mr Frew: OK. I want to ask about the young shots, Chair, if you will allow me. We all know the Minister's position. He finds this area uncomfortable and, while some of us would wish him to go in a certain direction, it is very clear from his engagements that he is not prepared to go as far as we would like. With regard to the new Justice Bill, which is coming before us very soon, will there be a part in that on young shots?

Mr Simon Rogers: The Minister wants to see what happens on Monday first, but he said that he would then take stock on that. I can let you know.

Mr Frew: He has a position — albeit one that I do not agree with — that could be put into a Bill.

Mr Simon Rogers: My expectation, without pre-empting all of the approvals etc, is that that is what would happen, but I think we will get Monday over first.

Mr Frew: OK. I will certainly look forward to Monday. It says in his piece here that, because of his nervousness and uncomfortableness about it, he is taking advice from the Chief Constable. Is that the current Chief Constable?

Chief Superintendent Cargin: In terms of the police position, the Chief Constable position was that it should be around the age of 16. That is the current Chief Constable. Age 16 was the recommendation of both the previous Chief Constable and the current Chief Constable, but we will support the Minister's position.

Mr Frew: OK. Thank you very much, gentlemen.

The Chairperson (Mr Ross): Patsy has one very quick question.

Mr McGlone: Just very brief.

The Chairperson (Mr Ross): As always.

Mr McGlone: There are two things. You touched on the turnaround times earlier. Obviously people are buying into a new fee structure, and they will expect quicker turnaround times. In my dealings with staff at firearms and explosives licensing, I have always found them efficient and courteous. You will appreciate that sometimes — not all the time; most times people are very open when they come to you — people just do not tell it all. I have found them courteous and efficient. I have found on other occasions that maybe an application has slipped by the wayside or somebody has forgotten about it, but, at that point, whenever I intervened, it was dealt with very quickly.

Often there is no reason for it. I had occasion recently to bring up one where a guy and his mates who had applied for a variation for a rifle. His mates had gone for the rifle at the same time. He was already a firearms holder, and use had been established — all those sorts of things. His mates received theirs back a good week or so before it, and his was still lingering on. Now, there were no security issues or criminal issues. There was nothing whatsoever like that. As you know, the shooting fraternity is pretty much a closed house, and they talk to one another. It is that sort of thing that kind of skews things a wee bit. If people are buying into a new system and paying a bit extra for that, they expect that bit more consistency in approach to things, especially in cases like that, which is a classic example where they were all on an equal footing. They all applied at the same time, give or take a day or two, yet the difference between one receiving it and the other receiving it was a good month. It is that sort of thing that gives it a bit of a bad name where that occurs.

The first thing is that there be an anticipated efficient turnaround time for the likes of variations, or indeed re-grants, where there are no complexities or situations that we know of. That is the first thing. You were touching on the second thing earlier. If someone applies for a firearms certificate and, for example, they forget to sign it or to insert the bit about who their referee is, or their referee forgets to sign the bit that they are supposed to sign, I presume that that is not given as a good reason to pocket the money and say, "Sorry, you have to reapply".

Mr Simon Rogers (Department of Justice): No, that would be returned to them — "Please fill in and please return".

Mr McGlone: That is grand. Thanks very much for that.

The Chairperson (Mr Ross): OK, there is no one else. Folks, thank you very much.