

From:
Safer Communities - Police Division
14 September 2012

Cabinet Secretary for Justice

AIR WEAPONS LICENSING AND FIREARMS FEES

Purpose

1. This minute:
 - Discusses issues around the policy position on not compensating air weapons owners if they choose to hand in their weapons;

Conclusion

2. You are invited to note the contents of this submission and to:
 - 2.2 Note the potential for challenge on the issue of compensation should people choose not to licence their existing air weapons

AIR WEAPONS LICENSING AND FIREARMS FEES

COMPENSATION

1. In my minute of 3 April, informing you of progress to that date, I noted that it was likely that many existing owners would choose not to license their air weapons, particularly if they are old, of low value or unused, and would look to hand them in, as has happened in the past, for example for handguns. Panel members have argued that the Government should compensate owners for any weapons handed in, suggesting a round figure of £200 per weapon. I noted that we were resisting such suggestions, but that Ministers were likely to come under increasing pressure on this issue once proposals become more public.

2. In your response of 11 April you strongly agreed with this position, and we wrote to Panel members on 4 May confirming, amongst other things, the Government's policy on compensation. You reiterated this at the Panel's latest meeting on 14 August.

3. While there has been no real discussion of this issue in recent meetings, we do expect this to be a continuing cause of disagreement amongst members of the shooting and gun-owning lobby. In particular, there is the possibility of individuals or the wider gun lobby seeking to challenge the Government's position, or indeed any new legislation, under the terms of the European Convention on Human Rights. In broad terms, the ECHR recognises the right to peaceful enjoyment of property, makes deprivation of possessions subject to certain conditions, and recognises that States can balance the right to peaceful possession of property against the public interest. While it is arguable as to whether any such challenge would succeed, there is certainly scope for a determined opposition to delay or seek to amend the Government's proposals in this regard.

4. **While we will hold the line on a compensation scheme if the intention is to license all air weapons, you may wish to consider whether we include background information and one or two discussion points on the issue in the consultation paper which we are preparing.** It might, for example, acknowledge the need to balance costs to the public sector against the value of individual weapons held. While a number of guns held by regular shooters may be of high value, we believe that many, including a large number of old and forgotten air guns will have little or no financial value.

5. The consultation paper might also acknowledge the fact that compensation schemes have operated in the past, for example after the Dunblane shootings in 1996. In that case, however, legislative change effectively banned handguns for most owners. The associated compensation scheme offered a range of options in terms of financial compensation, including a flat rate payment per weapon. The full costs of that scheme to the UK Government were very significant - we understand in excess of £150 million.

Compensation

- 11.9 A range of comments were made in relation to the issue of compensation for handed-in air weapons.
- 11.10 Respondents commonly argued that compensation should be paid – for three reasons: (i) compensation would recognise the financial loss involved for owners having to give up weapons as a result of the new legislation; (ii) it would encourage people to hand in weapons; and (iii) lack of compensation would lead to unwanted weapons being traded on the black market or remaining in circulation on an unlicensed basis.
- 11.11 Some respondents contested the figures provided in the consultation paper on the value of a typical air weapon, with figures of more than £1,000 cited. However, it was more common for respondents to suggest compensation levels ranging from £100 to £250. At the same time, the importance of compensation for antique guns and other higher value guns was also highlighted. It was suggested that compensation should be based on actual receipted cost and reflect market value. Less commonly, it was also suggested that owners should be compensated for any reduced market value of their airgun following the introduction of licensing.
- 11.12 Some warned that the failure to offer compensation may be open to legal challenge. Others expanded on this, arguing that without an accompanying compensation scheme, the hand-in arrangements were depriving people unlawfully of their possessions, and as such it was argued that this was in contravention of the European Convention on Human Rights.
- 11.13 Issuing licences free of charge to existing owners was suggested as an alternative to a hand-in and compensation scheme. In contrast, however, those who were in favour of regulation (or a complete ban) supported the government view that no compensation should be paid.

LICENSING AIR WEAPONS IN SCOTLAND

POLICY DISCUSSION DOCUMENT

Compensation

It is the Cabinet Secretary's clear policy intention that we do not pay compensation for air weapons surrendered or forfeited under the new arrangements. This has drawn significant concern and criticism from the gun lobby, and was raised in the Westminster Parliament during the course of the Scotland Bill. Many of those concerned argue that this would be contrary to Article 1 ECHR, on the issue of private property. Given the concerns, and the backing which the gun lobby can muster, there is a significant risk of legal challenge on this issue. The question of whether or not that challenge might be successful is one for debate, and ultimately the courts, but there is in any event the potential for criticism in the Scottish Parliament and elsewhere, and delay for the implementation of the new regime, if the lobby takes this to the courts. In designing the licensing system we have to ensure that we have a robust defence for this aspect of the policy.