

OFFENSIVE WEAPONS BILL

SUPPLEMENTARY DELEGATED POWERS MEMORANDUM

The Government has tabled amendments to the Offensive Weapons Bill for Lords Committee Stage that will introduce a new civil preventative order known as a Knife Crime Prevention Order. This supplementary memorandum deals with one aspect of the amendments which is the power to issue guidance relating to the exercise of functions by relevant persons in relation to KCPOs and explains why the power has been taken and the justification for the procedure selected.

New clause “Guidance” - Power to issue guidance relating to the exercise by a relevant person of functions in relation to knife crime prevention orders

Power conferred on: Secretary of State

Power exercisable by: Statutory guidance

Parliamentary procedure: None

Context and purpose

1. New Part 5 of the Bill creates a new civil order known as a Knife Crime Prevention Order (KCPO). KCPOs can be made either on application from the police to a magistrates’ court (or youth court) or on conviction in any court for a relevant offence. The purpose of KCPOs is to help protect the public from harm from knife crime and to prevent offending involving a knife. The police and the Crown Prosecution Service (CPS) have a number of powers and functions under new Part 5 in relation to KCPOs, including being able to apply for a KCPO, ensuring consultation with the relevant Youth Offending Team takes place in relevant cases and ensuring conditions of an order, and the notification requirements that accompany orders, are complied with.
2. New clause “Guidance” enables the Secretary of State to issue guidance to “relevant persons” on the exercise of any functions relating to KCPOs. A relevant person in this context is anyone who can apply for a KCPO – these are a chief officer of police, the chief constable of the British Transport Police Force, the chief constable of the Ministry of Defence Police and the Crown Prosecution Service. Relevant persons must have regard to (rather than follow) any guidance issued when exercising functions to which the guidance relates.

Justification for taking the power

3. The purpose of guidance is to aid the implementation of KCPOs by supplementing the legal framework provided for in new Part 5 of the Bill. Amongst other things, the guidance will provide further information on the application process for KCPOs and on the types of evidence that are needed to support an application. The guidance will also provide further information on the sorts of

restrictions and requirements that may be available under a KCPO. We envisage the guidance will provide further information on how cases involving young people should be handled, including ensuring that there is proper consultation with youth offending teams and local authority children's safeguarding units where appropriate. The Home Office will consult widely on the guidance before it is issued.

4. It is important that the guidance can be updated at regular intervals to ensure it reflects lessons learned from the delivery of KCPOs and keep pace with events and operational good practice. For example, it is envisaged that KCPOs will be piloted initially in London before being rolled out nationwide and the guidance will need be updated to reflect experience gained from the pilot stage.
5. The requirement for the guidance to be published in such a manner as the Secretary of State thinks appropriate will ensure that it is accessible to all those who may need to refer to the guidance.

Justification for the procedure

6. The guidance is not subject to any parliamentary procedure because it deals with practical advice to those involved in making KCPOs and will have been the subject of a full consultation with interested parties before it is issued. The guidance will not conflict with the statutory framework governing KCPOs and although relevant persons must have regard to any guidance issued, there will be no statutory duty for persons to abide by the guidance – the aim is assist practitioners not direct them. This approach is consistent with that taken for other preventative orders such as Sexual Harm Prevention Orders and Sexual Risk Orders under sections 103J(1) and 122(J)(1) of the Sexual Offences Act 2003 as inserted by Schedule 5 to the Anti-social Behaviour, Crime and Policing Act 2014.

Home Office
29 January 2019