

**Information the Law Commission would like permission to quote in our published paper**

- ... the Police would wish a full codification of Firearms Legislation to be considered by the Law Commission.
- This report identifies the current usage of such ammunition and weapons, highlighting the primary threat in the use of late 19th Century military revolvers capable of utilising commercially available ammunition that is modified to approximate this.
- The lack of an explicit statutory definition results in the situation whereby criminals are able to exploit the loophole that allows the sale and ownership of these original lethal purpose obsolete calibre firearms to be held as 'curiosities or ornaments'. There are many reported cases which demonstrate that ammunition suitable for use in these firearms is being used in criminal use of firearms in the UK.
- It is clearly nonsense that criminals are able to obtain components of ammunition in kit form and a firearm separately and lawfully, and only when the ammunition is assembled and brought together with the firearm does the person commit an offence. Senior investigating officers report that this is a growing issue that criminals are starting to exploit, and it is inexcusable that such a loophole exists.
- Fifty two per cent of antique firearm recoveries from police intervention or criminal circumstances are made in combination with suitable ammunition.
- These firearms capable of discharging a common ammunition type constitute 31 per cent of all obsolete calibre firearm recoveries.
- Criminals are therefore able to obtain components of ammunition in kit form and a firearm separately and lawfully, and only when the ammunition is assembled and brought together with the firearm does the person commit an offence. Senior investigating officers report that this is a growing issue that criminals are starting to exploit.
- Evidence exists that firearms regarded as 'antiques' are being sold by specialist dealers and reaching criminals who commit crime by using or threatening to use these firearms.
- Criminals appear to be versed in the legal exemption for antique firearms, quoting section 58(2) of the Firearms Act, to be kept only as a curiosity or ornament and not discharged as a defence for possession..
- Growing evidence highlights that obsolete calibre firearms are being sold by specialist firearms dealers and entering criminal possession. Many instances exist where both specialist firearms dealers and criminals utilise the sec58(2) exemption concerning obsolete calibre firearms to continue trading in and to remain in possession of these items respectively, regardless of any intended

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use. In at least one instance, criminals have successfully defended a charge of firearms possession by arguing that they were merely in possession of the firearm as a 'curiosity or ornament' and that their intention was never to use it. Criminal armourers are then able to supply these firearms together with suitable ammunition to criminal groups.

- Consideration could be given to implement additional controls similar to those imposed upon cash converters and scrap metal dealers with all transactions being cashless. Customer records would be maintained by the dealer for police inspection.
- While proactive investigations such, using covert evidence gathering methods, can be undertaken, this is a resource intensive form of policing and is intrusive. The current legal situation also presents challenges to police in relation to the management of physical risk in armed operations, because the current law does not provide clarity as to when transfer of a firearm ostensibly as an antique is illegal. This creates situations where an armed policing operation with the potential for recourse to lethal force may be authorised, and yet the transfer of a firearm (antique) may not itself be a criminal act.
- As one of the main criteria for inclusion in Appendix 5 of the 'Guide on Firearms Licensing Law 2013' is based on the scarcity of the ammunition, or the associated arms to which it fits, a potential consideration could be to review vulnerable calibres such as the .44 S&W Russian and associated late 19<sup>th</sup> Century revolver calibres capable of utilising .44 S&W Russian ammunition for removal from the listing due to the developing trend of its availability for and usage in crime.
- As antique firearms do not currently require a licence or certificate, there is no central repository for recording the information when they are lost or stolen. If the owner of an antique firearm was required to hold a certificate then that firearm, when lost or stolen, would be recorded nationally. Currently there is no clear intelligence picture on how many antique firearms are stolen.
- Both antiques and 'deacts' can fall outside of licensing control, and intelligence indicates this makes them attractive to criminals and unscrupulous dealers who believe they can avoid detection or sanction. This is exacerbated by the fact that there is a lack of explicit definitions in law in relation to both these firearms types. There is no requirement to hold a licence to possess or trade in antique or (truly) deactivated weapons, and there is no regular mechanism for police to conduct routine checks on whether traders are operating within the law and with due concern for public safety. Overall, the legislation has not kept pace with modern criminal threats and transnational markets.
- Any proposals need to avoid overcomplicating what is already a relatively inaccessible area for the frontline police officers who attend suspected firearms incidents and the officers and staff who are charged with enforcing licensing regulations.

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- As with other areas in this submission clear definitions of key terms is required. Readily convertible is subjective and requires clarity of statutory definition.
- Recoveries of reactivated firearms have increased since 2012 following a reduction observed in 2011.
- NABIS data has highlighted that the proportion of criminal shootings that reactivated firearms are responsible for has risen over the last three years, currently accounting for five per cent.
- Thirty per cent (40) of these incidents resulted in injuries being sustained, including five fatalities.
- Five reactivated firearms have resulted in five fatalities within the MPS, GMP and WMP. Two of these weapons currently remain outstanding.

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