

FIREARMS LICENSING AND HUMAN RIGHTS

A SUMMARY OF RELEVANT ISSUES RAISED AT THE ACPO LICENSING OF FIREARMS AND EXPLOSIVES CONFERENCE 31st OCTOBER.2nd NOVEMBER 2001.

BY MARK SCOGGINS SOLICITOR ADVOCATE)

One of the key factors he raised was in relation to Firearms Certificate renewal and the variation in delays throughout the country .

He pointed out ECHR ARTICLE 6;

'In the determination of his civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal'

The tribunal mentioned did not have to be a court of law, but could include decisions made by a public body in determining the reasons for issuing a certificate for Firearms. Within a reasonable time, as you will be aware, is not defined in the Act, as with any Act of Parliament it will be for a court to decide.

He went on to address the audience of Licensing Officers and members of the Shooting Community that decisions should be made in a reasonable time and quoted as follows:

"It seems to me plain...that when a person is obliged to surrender his property and is to be compensated for it his claim will be considered, approved or rejected within a reasonable time' **Lord Slynn. Steed v Home Office, . House of Lords 18 May 2000.**

Although this quote was in relation to compensation for the surrender of property, it was highlighted that the courts were concerned about time taken to reach that decision.

Furthermore. ECHR Protocol 1. Article I, was quoted; *'Every person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the condition, as provided by law and by the general conditions of international law.*

In other words an unreasonable delay in issuing a certificate could be a breach of Human Rights. For example. a person surrendering their certificate for renewal or variation etc is unable to purchase ammunition and therefore unable to use the weapons.

He also approached considerations the police should give towards defending their actions and decisions in alignment with the Human Rights Act. It is appreciated that some Forces already have excellent procedures in place these factors he categorised as follows:

Evidence:

- Thoroughly sought out - not just that which may suit an opinion
- Objectively considered - looking at all the facts without bias.
- Securely retained - in written computer record or other format and locked away

Inquiries and Decisions.:

- Prompt
- Rational
- Informed
- Particular
- Objective.
- Reasoned.
- Communicated- tell the certificate holder why there are delays and record the fact.
- Consistent

Records:

- Complete
- Professional - avoid inappropriate comments on files. Unsubstantiated opinions etc.
- Available

Personnel:

- Trained
- Competent
- Impartial
- Open
- Available

In his address he emphasised that communicating our decisions, reasons for delay in

the procedures. e.g. having to write to another Force, awaiting referees, were essential elements in maintaining good relations with the Shooting Community and abiding by the spirit of the Human Rights Act.

He stressed the points of making written records and communicating decisions (including delays and reasons) to those who will be or may be affected by them.

Furthermore, as you will probably be aware, Assistant Commissioner Hart is of the view that his address was valid and it emphasised his view that delays in issuing of certificates are wholly unnecessary and should be eradicated. Any delays should be a in a minority.

These are summarised points from his address and a copy of his bullet notes are attached. Mark Scoggins has asked that any use of the material contained therein be attributed to him.

In summary it would be best practice to incorporate the issues raised by Mark Scoggins into everyday procedures as far as is reasonably practical, which I am sure was the message most of us received from his lecture.