



Submission to the Select Committee on the Arms Legislation Bill:

Fit and Proper

1. COLFO recognises that there have been deficiencies in the application of the current 'fit and proper' test. Tarrant should have never been granted a firearms licence, and there should be changes to limit the possibilities for people like him to be licensed.
2. The success of the licensing system, like other criminal justice intelligence, rests on mutual respect between licensed owners and the Police, and widespread citizen voluntary action to support the law. Previously, cooperation helped the licensing system to operate with the kind of intelligence that depends on a widespread feeling of responsibility to inform the authorities of concerns.
3. Unfortunately, the Police have nearly dismantled in the last five years, a system that involved hours of face to face contact between people seeking licences, and instructors and assessors in a position to be alerted to characteristics of concern.
4. There has been a determined push to cut costs, and to replace it with an internet based service with few of the personal assessment opportunities inherent in the previous administrative arrangements.¹
5. In 2015, the Police via the New Zealand Mountain Safety Council, dismissed their volunteer Firearms Safety Instructors based in over 147 venues around New Zealand. Ultimately they were "replaced" with online self-education and VTNZ testing venues. In decisions announced late in 2018, the Police began to further dismantle their own cadre of Arms Officers and Veters. The decisions were to take effect in 2019. They would reduce staff numbers in those roles from over 300 to 36. They intended to centralise administration to an Arms Act Service Delivery Group in a base on the Kapiti Coast.
6. Before the 2015 changes, the first point of contact for all new firearms licence applicants had for many years been vetted and trained firearms safety instructors from their local communities. They assisted with safety education, administered the test on behalf of the Police and gave advice on local clubs and contacts. The trusting relationships between Arms Officers, veters and the firearms community were at an all-time high. They were relied upon by all our constituent organisations. This was purposefully dismantled in 2015. We do not understand why this occurred. And we've seen no evidence to justify this change in approach

¹ See the New Zealand Police [submission](#) to the Inquiry into issues relating to the illegal possession of firearms in New Zealand, 30 March 2016, at 11.

7. The changes to the system proposed in this Bill will further erode any limited trust that still exists. Part 5 of the Bill now envisions a tick box approach through the operation of the words in s24A –

[Police may] find an applicant is not a fit and proper person to be in possession of a firearm or airgun if the member of the Police is satisfied that 1 or more of the following circumstances exist [...]

8. We want people with firearms to become licensed. This makes it more likely they will have, and will sustain amongst themselves, the required knowledge on firearms safety. They will have shown safe storage. Licensing is like vaccination. There is probably a critical proportion of the firearm using population that should have the training to make it perfectly normal to insist socially and formally on adherence to safety disciplines. COLFO wants to maximise the number of people who automatically demonstrate safety-focused behaviour.
9. The authorities have the communication addresses of licensed owners. They and we have channels to send safety reminders, encourage people to seek help and to join clubs. They can also be warned of problems.
10. They are incentivised to act within the law (so as not to risk losing the licence and having to surrender their firearms). They have incentives to encourage others to get licenced.
11. Potential applicants will see the new criteria list as a barrier to application – but this will not necessarily stop them from owning or using firearms. Police will know that if they sensibly exercise discretion to allow the licensing of a person, despite failing on a criterion, a merciless media will report it as an obvious Police failure when the inevitable eventually happens somewhere.
12. But no one will know, and no media will report on, the incidents and injuries attributable to reduced licence holding and reduced mutual engagement among licensed owners, when the new rules cause a decay in voluntary compliance with the law, and drive many users to operate outside the law, either willingly or unwittingly.
13. A list of factors, that are mandatory in practice, signal to potential applicants that they should not bother trying to become licensed. It also exacerbates the tick box risk that Police, having satisfied themselves that none of the listed factors are present, will not then investigate other factors that could be of concern.
14. The list itself is problematic. Under ss24A(1)(a) – (c), applicants only have to have been charged with a listed offence. It is irrelevant if the charges are subsequently dropped or the person is found not guilty. This does not respect the fundamental principal of innocent until proven guilty, and is open to abuse by Police or vexatious complainants.
15. Some sections, such as s24A(1)(f), have no consideration of time factored in. The application of this section could mean that someone who has ever exhibited serious mental ill-health will forever be barred. COLFO strongly supports safeguards against those with current mental

illness from having access to firearms. We recognise how difficult the question can be for authorities, and understand arriving on the side of caution. But there must be encouragement for judgement.

16. Consider the following example :

“B” owns a dairy farm. He is a licenced firearms holder and uses firearms to manage stock, for pest control and is a recreational hunter. The region has suffered a terrible drought and the stress has put strain on his marriage. “B” knows that he doesn’t feel like himself. He and his wife want him to have a chat to his family doctor. He has never experienced mental ill-health and does not know whether what is happening is temporary or more significant.

Under the current law, “B” could be confident that his visit to the doctor will be treated confidentially and he can work through a treatment plan with him. His wife can be confident that, if she has any concerns, she can talk to the Police and have the firearms removed temporarily from their home.

“B” is also in charge of a number of other high risk tools such as tractors, chainsaws, poisons and baling equipment. B’s wife wants him to see his GP as she is worried about all of these items.

After this Bill is passed, “B” is worried that without his knowledge or awareness of what is ‘significant’, his doctor will tell the Police. His experience of Police managing issues like this in the community is that they come to the home and remove the firearms without discussion. That would cause him embarrassment and everybody would know he is not coping.

“B” is also worried that if he goes to his doctor, he will be almost automatically disqualified from applying to renew his licence in 5 years’ time (ss24A(a)(f)). “B” and his wife are concerned that this period in their lives could permanently affect their standing in the community, B’s ability to hunt with friends and even their livelihoods (as firearms are a necessary tool for their farm).

So “B” does not seek support.

17. The Ministry of Health advises that “about 47% of New Zealanders will experience a mental illness and/or an addiction at some time in their lives...for most people, mental illness is usually ‘episodic’ in nature and a good recovery is made, in a timeframe that varies from person to person.”²

² <https://www.health.govt.nz/our-work/mental-health-and-addictions/mental-health/mental-health-work-ministry>

18. COLFO believes that the absence of nuance in this provision will mean unjustified stigmatisation of people with mental health issues, a widespread disregard for the law, and a reduction in people with firearms licences seeking professional help.
19. The vagueness of the language in s24A(1)(i) in regard to gang association, means that many people, who should be licensed .They will not do so because they will believe they could be caught by this provision. Having a family member in a gang should not prevent you from being part of the licensed system. COLFO strongly supports reducing criminal access to firearms, but providing a loose arbitrary test like this will not prevent their access. It will only decrease compliance.
20. People who are discouraged from applying for their firearms licence are likely to obtain firearms on the black market. Not having a licence will only discourage those that were intending to be law abiding citizens – it does not provide a target to those who may be on the edges of compliance.
21. COLFO recommends that the current fit and proper provisions in the Arms Act 1983 remain unchanged, but the following is done to ensure that its application is robust:
 - (a) Ensure the regulation-making power in s74(1)(bb) is disciplined. The Police should have to seek approval from the shooting community on factors that should be taken in to account (not mandatory exclusions). Approval from the community should be provided by way of the Firearms Advisory Committee (that reports directly to the Minister as outlined in paragraphs 103 - 109 of this submission);
 - (b) Funding that was previously withdrawn from the administration of the Arms Act³ be reprioritised back in to administration of the Act, and protected from future scavenging by unsympathetic Police budget controllers;
 - (c) Undertake a review of to the ‘fit and proper’ application process that takes in to account the Royal Commission of Inquiry into the Attack on Christchurch Mosques, and engages with the community on the experiences they have had with the application process.
 - (d) Provide a scalable set of responses to concerns about mental health. They should guide health practitioners about when they should act, provide assurance to licence holders about how they will be treated, and limit how Police respond. For example, there might be a possible to expect a temporary surrender of firearms with a set period of review – with no automatic permanent black mark against the ability to renew a licence in the future.

³ See example of reprioritisation - See NZ Police Annual Report 2017/18, page 50.