



# Minutes

<b>Title of meeting</b>	Exemptions for airsoft
<b>Date and time</b>	11 March 2016, 10.00 – 11.30
<b>Venue</b>	2 Marsham Street, London SW1P 4DF
<b>Attendees</b>	<b>Home Office:</b> [REDACTED] <b>UK Airsoft Players Union:</b> James Williams, Matt Furey-King <b>UK Airsoft Retailers Association:</b> Frank Bothamley, Adrian Whiting (consultant) <b>UK Airsoft Trade Body:</b> Tim Wyborn
<b>Objective:</b>	Discuss concerns from the airsoft representative bodies on the wording of the exemption for airsoft guns from the proposed definition of “lethal” in respect of a firearm in the Policing and Crime Bill (clause 77 (5)) and the corresponding proposed statutory maximum kinetic energy levels for airsoft guns.

## Summary and actions

1. Four main areas were raised by airsoft representatives relating to the current drafting of clause 77 and possible unintended consequences. These are:
  - a) The unintended consequences of the statutorily defined maximum power limits for airsoft guns
  - b) A proposed alternative approach to exempting airsoft guns
  - c) The restriction of the definition of an airsoft gun to one which only fires projectiles up to 6mm, not up to 8mm.
  - d) The definition of an airsoft gun as one which can *only* fire plastic pellets, not one which is *designed* to only fire plastic pellets.

A summary of the discussion in relation to each of these points is summarised below.

- a) *The unintended consequences of the proposed statutorily defined maximum power limits for airsoft guns*
2. The proposed maximum kinetic energy limits of 1.3 joules for automatic and 2.5 for single shot were accepted as not in themselves causing any issues and as being reflective of the current operating limits on many sites. However, defining these limits in statute is a significant departure from the current operation of the law (and corresponding airsoft trade and gaming practices) which turns on the interpretation and decision of the courts, rather than on statutory definitions. This is particularly the case in respect of automatic variants, given the possibility of automatic guns over the maximum kinetic energy level limits engaging s5 of the Firearms Act 1968. Two key difficulties were put forward.

3. The first concerns the potential of these legal definitions to criminalise those who, by modifying or servicing an airsoft gun (changing a spring for example), inadvertently increase the power so that it exceeds the permitted kinetic energy levels. Under such a scenario, legitimate airsoft players may find themselves prosecuted for a s5 offence and face the prospect of a mandatory minimum sentence of 5 years' imprisonment.
4. The second issue concerns the fact that the majority of airsoft guns are imported from countries with higher or non-existent statutory power levels. Under current practices higher powered guns imported from abroad are reduced in power by dealers before the point of sale to match the power levels set by skirmishing sites. Under the proposed statutory definition, a dealer who inadvertently imported airsoft guns over the maximum kinetic energy, even by a very small margin, would find himself in breach of s5. It was averred that even when a power level is specified by a manufacturer, a dealer has no way of assuring himself this is actually what is being imported, especially in the cases where the power limit is only just above the maximum permitted. There is also an import to export issue, where guns are imported to Britain for the sole purpose of exporting them, perhaps to countries with higher power thresholds.
5. In addition, concerns were raised over the need for a consistent and credible kinetic energy testing process. Numerous factors, such as air temperature and transit, can affect the power levels of airsoft guns and there needs to be an agreed testing mechanism with a reasonable plus/minus margin.
6. An exemption for import purposes was proposed with controls taking effect at the point of sale. A maximum power limit of 3 joules for automatic airsoft guns was proposed for these purposes.
7. Home Office officials explained that the underlying rationale behind the wider reforms to firearms legislation was to simplify and clarify the existing legislation; exemptions to exemptions were not conducive to this. Furthermore, the proposed changes had to be watertight and there was a need to think through the consequences of allowing airsoft guns, in some circumstances, to exceed the recommended kinetic energy levels.
8. One possible solution which obviates the need for complex Bill amendments is to explore the possibility of an import exemption.

**Action 1: Home Office officials to liaise with BIS on the feasibility of an import exemption for airsoft guns over the proposed legal kinetic energy levels. This to be done in line with the progress of the Bill and the airsoft representative bodies are to be informed of developments and outcomes.**

*b) Alternative approach to exempting airsoft*

9. Adrian Whiting tabled an alternative approach to exempting airsoft guns from the 1 joule "firearms" definition which avoids the issues highlighted above. This looked at the classification of an airsoft gun above certain thresholds and the current position that controls should not apply unless specifically dangerous. He suggested amending the provisions in respect of readily convertible imitation firearms to only apply to those imitation firearms that if converted would be air weapons and would then fire at muzzle energies which exceeded the thresholds.
10. The Home Office reiterated the need to keep changes to the legislation as simple and straightforward as possible and agreed to consider the proposal further, consulting with lawyers as necessary.

**Action 2: Home Office officials to consider this proposal further in line with the progress of the Bill and inform the airsoft bodies of developments and outcomes.**

c) Restriction on the use of (up to) 6mm projectiles, as opposed to (up to) 8mm

11. The Home Office explained that the proposed definition in the Bill of an airsoft gun as one which fires projectiles up to 6mm in diameter reflects both the definition used in the Law Commission's consultation (in the glossary) and the size of the projectiles used in the scientific testing of the wounding potential of airsoft projectiles carried out in 2011 by the Forensic Science Service (and set out in the Home Office Guide on Firearms Licensing Law). Objective scientific testing has not been carried out on the effects of 8mm, hence why the Bill is limited in its definition to (up to) 6mm.
12. Airsoft representatives argued that 8mm pellets are less powerful than 6mm as the projectiles travel at a slower speed and their greater surface areas means their energy is dissipated at a greater rate upon impact. Given this, they argued it was perverse to limit the size of pellets to 6mm as these are more powerful (at the relevant max kinetic energy levels) than 8mm. They offered to submit evidence to this effect.
13. On a related note, the description of "wholly or partially plastic" in regards to the definition of the composite materials of pellets was agreed as being accurate as this incorporates those pellets which are made primarily from starch or wheat as they all utilise plastic to one degree or another.
14. In addition, the airsoft reps, suggested inserting the qualifier "spherical" into the definition of airsoft projectiles to remove any possibility of the description as it stands at present from incorporating rifled projectiles or darts.

**Action 3: Tim Wyborn to submit evidence on the effects of 8mm projectiles relative to 6mm.**

**Action 4: Home Office to consider this evidence in line with the passage of the Bill and inform the airsoft bodies of developments and outcomes.**

**Action 5: Home Office to consider amendments to the Bill to specify that projectiles must be "spherical".**

Refining the legal definition of an airsoft gun by reference to what it is designed to fire.

15. Airsoft representatives suggested amending the definition of an airsoft gun by reference to what it is *designed* to fire, rather than the current definition which hinges on what, and only what, it *can* fire. The present definition does not take into account the fact that an airsoft weapon could fire glass or ceramic projectiles, regardless of what is actually used during skirmishing games and what it is designed to fire. The current description in the Bill therefore has the effect of ruling out from this definition the very thing which it attempts to define.
16. The Home Office argued that specifying "design" in the definition would not stop improper use but agreed that there may be merit in refining the description around "design" and agreed to consider doing so.

**Action 6: Adrian Whiting to submit paper on new definition (completed as of 14 March).**

**Action 7: Home Office to consider in line with progress of the Bill and to inform the airsoft bodies of developments and outcomes.**

17. All agreed that another meeting would be useful. The date is as yet tbc, but to be of most use should be held once the Bill has further progressed so that possible amendments can be considered.