

BEREAVEMENT & UNLICENSED FIREARMS

Like taxes, death is an inevitability we all must face. For those of us who own guns we have a moral duty to try to ease the burden of our passing on those whom we leave behind. Losing a loved one is traumatic enough without the extra worry of what to do with the contents of their gun cabinet. Here are some suggestions as to what you might do to make things easier for your executors and personal representatives after you have gone.

THINGS YOU CAN DO TO HELP YOUR EXECUTOR OR NEXT OF KIN

Mark a large envelope to the effect that it should only be opened after your death. Put the following things inside it.

- Instructions to write to the Firearms Licensing Department informing them of your death and requesting a Temporary Permit under Section 7 of the Firearms Act 1968. (This authorises your personal representatives to be in lawful possession of your guns until they decide what to do with them. A Section 7 is issued free of charge and for a limited term. Three months is an appropriate period to ask for).
- Contact details for the Firearms Licensing Department.
- What guns you own, especially important if you have loaned one to another certificate holder.
- A note of what the guns are worth, including any receipts for what you paid for them. This will help prevent your family from being ripped off.
- Up to date copies of your Firearm and Shotgun certificates and where the originals are likely to be found.
- What your wishes are for the disposal of your guns if you have not included them in your will. If they are in your will, any informal instructions to your executors.
- The details of any willing friend who would be prepared to look after your guns until a decision is made for their disposal. He/she will need to be the holder of the Temporary Permit. Guns may also be deposited at a Registered Firearms Dealer or licensed auctioneer for sale if that is your wish.

CABINET KEYS

This is a tricky area. It is an offence to disclose the whereabouts of your keys to a person not authorised to possess your guns. However, your executors will need to have access to your cabinet after you have died to dispose of your property on behalf of your estate.

You will need to strike a balance between guarding your keys during your lifetime and being found after a detailed search by your executors when you have died. Avoid choosing a complicated hiding place, otherwise your executors will never find them and you will probably forget where you put them. Equally don't leave your keys on top of the cabinet as this would just make them a present to burglars.

HINTS FOR EXECUTORS

In BASCs experience Firearms Licensing Managers will bend over backwards to help the personal representatives of a deceased certificate holder. They have an interest in the matter to satisfy themselves that the guns are being stored safely until they are sold or transferred etc.

The police should not need to ask for the guns to be removed from their place of storage unless there is demonstrable risk to their security. In practice, the police should not request removal where the physical security arrangements remain unchanged and keys have been found. However; any suitability concerns (e.g. impaired responsibility or criminal history) about the next of kin or executor may warrant the guns being moved to a dealer or other representative.

There is no need to return the Firearm and/or Shotgun certificates. Some people like to keep them as a memento of the deceased.

Permits Authorising Temporary Possession

Section 7 of the Firearms Act 1968 enables a chief officer of police to issue a permit to a person authorising them to possess a firearm or ammunition to which Section 1 of the Act applies, or a shotgun, in any special case where it may not be necessary or desirable to issue a certificate. Home Office guidance to the police states that a permit should, in normal circumstances, be issued to authorise a relative or executor of a deceased person to have temporary possession of firearms or ammunition forming part of the deceased person's property. Before the police issue a permit, they will wish to be satisfied that the security measures remain satisfactory. The permit will be valid for a preliminary fixed period (usually 3 months) and should allow sufficient time to facilitate the legal transfer, disposal or permanent retention of the property. If matters are not finalised within the time initially allowed, the police can issue a further permit. This will also allow possession whilst family members apply for a shotgun certificate for example.

Transfer to a Registered Firearms Dealer (RFD)

There is no specific need to store the guns with a dealer. If you are happy to store the guns in the deceased person's cabinet or perhaps with a fellow shooting friend of the deceased then do so. However; unoccupied houses should be avoided.

RFD's can arrange for the collection and secure transportation of any firearms and ammunition and can be instructed to store, sell, transfer, destroy or de-activate items as appropriate. Registered Firearms Dealers will usually charge for the provision of this service and you should be clear about the terms and agree a price before committing to employ them.

If you decide to use a dealer to sell the guns, make sure you have a proper receipt for them. Obtain a receipt that states the gun is owned by somebody other than the dealer, that it is held for sale or return and the value and arrangement agreed. This will avoid problems should a dealer go bust and clients guns have been seized by creditors leading to all kinds of difficulties.

Including the minimum price you will accept (cash in hand) and what the dealer's commission or fee for selling is to be. Time limit the period for sale or they may hang about the dealer's premises for ever. The receipt should explicitly state that the guns remain your property until the dealer pays the agreed sum in full for them.

Auction

Perhaps the best way to dispose of guns is through one of the specialist auction houses as the market will decide what the guns are worth. Be very hard with the auctioneers when it comes to deciding on their commission rate. Be prepared to haggle and shop around, there will always be another auctioneer ready to sell them for a lower rate. Make sure the receipt lists all charges otherwise you may find some unwelcome add-ons for photography, insurance etc. Read the small print and make the auctioneer

explain anything of which you are unsure. Most importantly, agree when after the sale the auctioneer is to pay you. Don't put up with any back-sliding.

Private sales

If you decide on private sale you will have to allow potential buyers to examine the guns. This might leave you vulnerable to theft or assault. Vet all prospective buyers thoroughly and make sure they have the correct documentation.

Transfer to Firearm Certificate and Shotgun Certificate Holders

A deceased person's instructions and Will may or may not allow certificate holders to possess the guns on a temporary basis. Whilst it is possible for the guns to be signed onto a personal certificate and notification given to the police; it is BASCs view that any temporary holding should be in conjunction with a police temporary permit. This is to avoid conflict around the title of the firearms (ownership rights). It is advised that only when the decision is made to transfer a gun to its new owner that the gun should be entered onto their personal shotgun certificate. The police should not seek the certificate approach to avoid issuing a temporary permit.

Section 1 Firearms

If the firearms were previously held by the deceased by virtue of a firearm certificate, then they can be transferred to another firearm certificate holder, but only if the person has open authorities on the certificate for the particular calibres and types to be transferred. If they do not, then a Temporary Permit will have to be obtained or the firearms transferred to a Registered Firearms Dealer.

Note: If you transfer firearms to the holder of a firearm certificate, you should complete Table 1 of their certificate. Notification of the transfer should be sent to the police by the certificate holder within 7 days.

Section 2 Shotguns

If the guns were previously held by the deceased by virtue of a shotgun certificate, then they can be transferred to the holder of a valid shotgun certificate. No prior authorities are required on a shotgun certificate.

Note: If you transfer shotguns to the holder of a shotgun certificate, you should complete Table 2 of their certificate. Notification of the transfer should be sent to the police by the certificate holder within 7 days.

UNLICENCED FIREARMS

You should act immediately whenever an unlicensed firearm is discovered. It is essential to seek the advice and guidance of either a Registered Firearms Dealer or alternatively the police. The first thing that needs to be established is what type of firearm has been discovered and what are the licensing requirements? If it is that they are found to be Section 1 firearms or Section 2 shotguns, then the advice relating to previously licensed firearms and shotguns applies. If the firearms are antiques, de-activated, or air weapons deemed not especially dangerous, then you will be able to retain them without any form of certification. If, however, they are found to be prohibited firearms they will have to be transferred to a Registered Firearms Dealer suitably authorised by the Home Office to deal in such items or surrendered to the police. You will still retain title over the firearms but will not be able to re-take physical possession of them. They do not have to be destroyed and you will be able to dispose of them via appropriate means once any police enquiries deemed necessary are complete.

ENQUIRIES TO: Phone 01244-573010
 E-mail: firearms@basc.org.uk