

LGA response to the Government's consultation on Knife Crime Prevention Orders (KCPOs): Guidance

Wednesday 25 September 2019

1. About the Local Government Association (LGA)

- 1.1 The Local Government Association (LGA) is the national voice of local government. We work with councils to support, promote and improve local government.
- 1.2 We are a politically-led, cross party organisation which works on behalf of councils to ensure local government has a strong, credible voice with national government. We aim to influence and set the political agenda on the issues that matter to councils so they are able to deliver local solutions to national problems.

2 Summary

- 2.1 Knife crime has a devastating impact on victims, their families and communities. The recent rise in such crimes committed by young people is of enormous concern to local government, and we share the Government's desire to address this issue.
- 2.2 Where Knife Crime Protection Order (KCPO) areas are introduced, it will be essential to ensure the new orders effectively tackle knife crime. These orders should not contribute to the unnecessary criminalisation of young people.
- 2.3 It will also be vitally important that any new costs to local government associated with KCPOs are fully funded and sustained. Without additional resources, the new responsibilities placed on youth offending teams (YOTs) to monitor compliance with KCPOs will reduce capacity for the vital work that these organisations do to prevent young people from becoming involved in criminal activity in the first place.
- 2.4 We recommend that the guidance on KCPOs should clarify when a KCPO, rather than a gang injunction order or criminal behaviour order, would be the appropriate tool to use. We also urge the Government to commit to an evaluation of the use of KCPOs during the pilot process, ahead of a wider roll out. The pilot schemes should be geographically spread and not just focused in London.
- 2.5 It is also important to recognise the broader context of people who may become subject to KCPOs. It is clear that those who experience poor quality and traumatic childhoods are more likely to have poor life outcomes. This demonstrates that investment in protecting and supporting children and strengthening families is important both in addressing immediate safeguarding risks and in the longer term, reducing serious violence. This is why investing in early intervention and prevention is so crucial.
- 2.6 This is at a time when local authorities have been under significant financial pressure. It was positive to see the Spending Round provide councils with much of the certainty they need about how local services will be funded next year. Only with the right sustained funding and powers can councils continue to make a difference to their resident's lives by supporting families and young people and helping to tackle serious violent crime in our local communities.

3 Knife Crime Prevention Orders (KCPOs)

- 3.1 Knife crime has a devastating impact on victims, their families and communities. The recent rise in such crimes committed by young people is of enormous concern, especially at a time when these offences are falling amongst adults.ⁱ
- 3.2 The latest statistics show a year on year increase in offences by children involving knives and offensive weapons since 2014, with 4,500 such offenses committed in 2017-18 (though it should be noted that rates are still lower than a decade ago).ⁱⁱ
- 3.3 Councils are responsible for ensuring that local partners work together, through youth offending teams, to deliver effective youth justice provision, and have been highly effective in doing so.
- 3.4 The number of children and young people receiving a caution or sentence has fallen by 82 per cent over the last ten years, while the number of first time entrants to the youth justice system has fallen by 86 per cent over the same period.ⁱⁱⁱ
- 3.5 Councils are working hard with their partners to tackle all youth crime, including knife crime, and we are pleased that the Offensive Weapons Act is raising important debates about the causes of, and responses to, these crimes.
- 3.6 We are however concerned that KCPOs may criminalise vulnerable children at a point at which they most need support. There needs to be clear and conclusive evidence that the new orders will tackle knife crime and will not contribute to the unnecessary criminalisation of young people.
- 3.7 It is vitally important these new orders are fully evaluated, following the initial piloting in some local areas, before any action is taken to roll-out the new orders more widely. KCPOs should not just piloted in London – there needs to be good geographical spread, to make sure these new measures work in all areas.

4 Supporting children and young people

- 4.1 It is imperative we take a whole systems approach to supporting children and younger people. Parents, teachers and youth workers are all well placed to help provide guidance and support for when a young person transitions to adulthood. If we do not invest fully in children and youth services, we will not be able to tackle serious violence.
- 4.2 Funding for YOTs via the Youth Offending Grant has been halved since 2010/11, from £145 million to £72 million in 2017/18. This undermines their ability to continue providing strong outreach, preventative and diversionary work to avoid children and young people coming into the youth justice system in the first place.
- 4.3 In addition, councils have been forced to cut spending on local youth services from £650 million in 2010/11 to just £390 million in 2016/17 as a result of government funding cuts. These services can be invaluable in building trusted relationships with young people so that they can be supported through difficult times and provided with the right support, when they need it.

4.4 The Home Affairs Select Committee report into serious youth violence published in 2019 has indicated that the rise in youth violence is likely have been associated with a reduced youth service offer.^{iv}

4.5 Only with the right sustained funding and powers can councils continue to make a difference to their resident's lives by supporting families and young people and helping to tackle serious violent crime in our local communities.

5 KCPOs in cases other than on conviction

5.1 The guidance states that KCPOs are intended to be preventative rather than punitive, to help prevent knife crime. The courts require a civil standard of proof for introducing the order, but breaching a KCPO could result in a custodial sentence of up to two years imprisonment.

5.2 Officials have said these new orders would enhance police powers by filling a gap not covered by existing preventive measures such as gang injunctions and criminal behaviour orders.

5.3 Prior to introducing the Knife Crime Prevention Orders, it would be useful to know if the Government has conducted any analysis on the use of injunctions or criminal behaviour orders. It will be important to know how frequently these powers have been taken up and how effective they have been, particularly if there are any lessons learned that could be applied to KCPOs.

5.4 The Anti-Social Behaviour 2014 statutory guidance states that civil injunctions can be used to tackle gang related activity, either directly on gang members or on those being exploited by gangs in order to disrupt their operations. The conditions of the injunction can include prohibitions on entering certain areas or affiliating with certain individuals. Injunctions can also include positive requirements such as engaging in drug treatments, in the same way the KCPOs can include positive requirements.

5.5 The Government have said the new Knife Crime Prevention Orders are needed because gang injunctions apply only to children whom the police can prove to be members of gangs. The new orders are intended to help those children and young people who are not members of gangs but who carry knives out of a misplaced sense of security.

5.6 As part of the KCPO pilot, it will be important to understand how often prohibitive and positive requirements are used currently in relation to gang injunctions and whether there are any lessons to be learned. There should be an assessment of whether the current provision for positive requirements, such as relationship counselling or anger management courses, has the necessary funding from central Government, and consider the extent to which this provision has capacity to deal with increasing demand from KCPOs.

5.7 It will also be important to understand how these new orders will affect the current use of current anti-social behaviour powers. The statutory guidance needs to outline the different circumstances in which a gang injunction would be considered appropriate and when a Knife Crime Prevention Order is necessary.

6 Without notice applications

6.1 The guidance states that when a 'without notice' application is made, the court would be able to grant an interim KCPO pending a full hearing following the giving

of notice to the defendant. The applicant is not required to comply with the YOT consultation requirement, that being where the applicant is a child, the provision of the views of the local YOT to the CPS before making such an application

6.2 In the event that an application for a KCPO is given without notice, it is our view that there should be some form of consultation with a youth offending team. We are concerned that issuing a notice to a young person who has been receiving a lot of support from the Youth Offending Team could undo a lot of that work and trust that has been built up over time. This would be counter-productive.

6.3 We know that trusted relationships are vitally important in helping to tackle serious youth violence, and we must ensure every effort is made not to undermine the trust that is built up between children, young people and trusted adults.

7 Consulting Youth Offending Teams

7.1 The guidance outlines that it is a requirement for the applicant to consult with the relevant Youth Offending Team, and it is expected that, as good practice, the police and the Crown Prosecution Service (CPS) would share with the court the outcome of the consultation at the hearing. The guidance suggests the police and the CPS may want to consider including the Youth Offending Team's report in the evidence bundle in anticipation of the court wishing to see it.

7.2 It is our view that it should be a requirement for the police and CPS to include the YOT's report when presenting evidence to the court, and share the outcome of the consultation at the hearing, rather than just an example of good practice.

8 Resource implications for YOTs and children's services

8.1 The guidance states that a KCPO must specify a person (an individual or organisation) who is responsible for supervising the defendant's compliance with the requirement. The guidance suggests it is the duty of the specified person to make any necessary arrangements in connection with the KCPO, for example a member of the local Youth Offending Team or a youth worker.

8.2 Local authorities have responsibilities to deliver effective youth justice provision, along with responsibilities around safeguarding and protecting the wellbeing of all young people in their area. Councils would therefore have an important role to play in KCPOs, including monitoring compliance and supporting young people away from criminal activity.

8.3 It is important that any new costs to local government associated with KCPOs are fully funded. Without additional resources, the duties associated with administering KCPOs could risk the vital work that these organisations do to prevent young people from becoming involved in criminal activity.

9 Impact on young people

9.1 Evidence shows that young people are more likely to be involved in youth offending if they have experienced adverse childhood experiences. Where young people have experienced maltreatment in adolescence, they are far more likely to be involved in the youth justice system.^v

9.2 The prevalence of county lines is increasing dramatically across the country and we know that young people are being subject to criminal exploitation as a result.

The Children's Society highlights that factors such as being in care, experience of parental substance misuse or domestic abuse, or insecure housing can increase a young person's vulnerability to being exploited by criminal gangs.^{vi}

9.3 It is clear that those who experience poor quality and traumatic childhoods are more likely to have poor life outcomes. This demonstrates that investment in protecting and supporting children and strengthening families is important both in addressing immediate safeguarding risks and in the longer term, reducing serious violence.

9.4 We need to be intervening with younger people at an earlier point and making the best use of 'teachable moments'. For example, some of the work Redthread has been doing to identify those in A&E who have suffered a traumatic event through their involvement in serious violent crime.

Contact

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ⁱ Further information available at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/685886/Annual_Stats_FINAL.pdf

ⁱⁱ Further information available at: <https://www.gov.uk/government/statistics/youth-justice-statistics-2017-to-2018>

ⁱⁱⁱ Further information available at: <https://www.gov.uk/government/statistics/youth-justice-statistics-2017-to-2018>

^{iv} Further Information available at

<https://publications.parliament.uk/pa/cm201719/cmselect/cmhaff/1016/1016.pdf>

^v Further information available at: https://www.local.gov.uk/sites/default/files/documents/15%2034%20-%20The%20relationship%20between%20family%20violence%20and%20youth%20offending-V4_1.pdf

^{vi} <https://www.csepoliceandprevention.org.uk/sites/default/files/Exploitation%20Toolkit.pdf>