EXPLANATORY MEMORANDUM TO

THE POLICE, CRIME, SENTENCING AND COURTS ACT 2022 (OFFENSIVE WEAPONS HOMICIDE REVIEWS) REGULATIONS 2022

2022 No. 1261

1. Introduction

1.1 This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by command of His Majesty.

2. Purpose of the instrument

2.1 This instrument:

(a) sets out conditions for an offensive weapons homicide review ("OWHR"), additional to those in section 24 of the Police, Crime, Sentencing and Courts Act 2022 ("the Act");

(b) provides how the relevant review partners (who conduct the review) are to be determined; and

(c) provides powers for relevant review partners to delegate some of their functions.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect), for Part 2 (duty to arrange an OWHR) is England and Wales. For Part 3 (relevant review partners) and Part 4 (delegation) the instrument applies to review partners in the pilot areas in England and Wales[1]

5. European Convention on Human Rights

5.1 The Minister of State for Crime and Policing has made the following statement regarding Human Rights:

"In my view the provisions of the Police, Crime, Sentencing and Courts Act 2022 (Offensive Weapons Homicide Reviews) Regulations 2022 are compatible with the Convention rights."

6. Legislative Context

6.1 This instrument is the first exercise of the powers in Part 2, Chapter 2 of the Act (OWHRs). They provide for additional conditions that must be met before the duty to conduct a OWHR is triggered. They also make provision to determine who the

[1] South Wales and parts of London and the West Midlands

relevant review partners (who conduct a review) will be. Finally, they give these partners powers to delegate certain parts of their functions.

6.2 Further to section 34 of the Act (piloting) and commencement regulations (to be made under section 209(1) of the Act), the application of this instrument will initially be limited to the pilot areas[2] . The commencement regulations are planned to be made later in the year to enable the pilot to commence in early 2023. The pilot is expected to be in place for a period of 18 months, although this may be extended. At the end of the pilot, a report must be laid before Parliament on the operation of some or all of the provisions of section 24 to 31 of the Act (OWHRs) before this instrument may be brought into force for all purposes and in relation to the whole of England and Wales.

7. Policy background

What is being done and why?

7.1 Every homicide is a tragedy, and the Government wants to do all it can to prevent them and tackle serious violence. Reviews of certain deaths currently take place in England and Wales, namely where a person aged under 18 dies, a person dies due to domestic violence, a vulnerable adult dies, or someone in receipt of mental health care commits homicide. The reviews are a formal process bringing together relevant local safeguarding partners to learn lessons and to make recommendations for change and improvement to prevent future homicides. Homicides involving offensive weapons make up a large proportion of all homicides and currently there is no legal requirement to formally review the circumstances around these deaths. Of the 732 offences initially recorded as homicides in 2019, an estimated 222 meet the criteria for existing homicide reviews, leaving 510 that do not, approximately half of these involved an offensive weapon (251) and would be subject to the new OWHR (under Part 2, Chapter 2 of the Act).

7.2 OWHRs have been introduced to fill that gap, deepening our understanding of serious violence, improving our response to it, and ultimately saving lives. The Act places a duty on relevant review partners to arrange and conduct a OWHR when there is, or there is likely to have been, a death in England and Wales of someone aged 18 or over and the events surrounding the death, involved or are likely to have involved the use of an offensive weapon. Under section 34 of the Act (piloting) this new duty is to be piloted before a decision is made on rollout for all purposes and in relation the whole of England and Wales.

7.3 This instrument provides the additional conditions for a homicide review and provides for how the relevant review partners are to be determined and gives them power to delegate some of their functions.

Additional conditions

7.4 The additional conditions (that is, additional to those set out in paragraph 7.2 above) for a homicide review provided for in this instrument are that there is: (a) confirmation of the location of a body or body parts, providing certainty that a death has occurred, (b) identification of either the victim or at least one perpetrator/suspected perpetrator, to direct the scope of the review and (c) that one or more review partners has certain information about, or would reasonably be expected to have certain information about, the victim or at least one perpetrator/suspected

[2] South Wales, parts of London and the West Midlands

perpetrator. The information in scope is information that there is a risk a person may commit, or be a victim of, antisocial or criminal behaviour and may relate to the person's education, anti-social or criminal behaviour, housing, medical history, mental health or be about their safeguarding. Only information from before the recording of, or the time of, the death (whichever is earlier) is in scope. OWHRs have been introduced to learn lessons and to make recommendations for change, to prevent future homicides. The final condition for a review will aid in ensuring that cases are not required to be reviewed where little or no learning is likely to be found.

Relevant Review Partners

7.5 The relevant review partners who must arrange a review will be a chief officer of police for a police area in England and Wales, a local authority and either an integrated care board in England or, in Wales, a local health board. The review partners will be those in whose area the death occurred or is likely to have occurred. But if the location of the death is not known (and only one person has died) the review partners will be those in whose area the body or part of the body was recorded as found (or if there is more than one part, where the first was recorded to be found). If more than one person died in the same incident and the location of the deaths is not known (or there is more than one location) the relevant review partners will be those in whose area a body or part of a body was recorded as first found. If a decision is unable to be made on who the relevant review partners are for a death the Secretary of State can make a direction to specify the relevant review partners, and that direction can be withdrawn or amended.

Delegation of review partner functions

7.6 To enable the relevant review partners to delegate certain functions in connection with the conduct of a review (including requesting information for the purpose of the review) this instrument gives them power to appoint one of themselves or another person to fulfil these functions. This provides the flexibility for the relevant review partners to agree for a lead agency or for an independent chair to be appointed to take forward the review.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 This is the first instrument made under the powers in Part 2, Chapter 2 of the Act. As such a consolidation is not relevant.

10. Consultation outcome

10.1 Partners from the pilot areas and their representatives including Ministers of the devolved Welsh Government, National Police Chiefs' Council, Local Government Association and relevant health bodies have been engaged throughout the last year, through regular meetings, official correspondence and consultation on draft documents as the OWHR policy has been designed and developed and no significant concerns have been raised.

10.2 In the 12 months prior to the pilot, we have been working closely with partners in the proposed pilot areas in England and Wales[3] including the police, local authorities, health and wider partners through the violence reduction/prevention units and continue to do so in the run up to the start of the pilot. Funding is being put in place ready for commencement.

10.3 Section 32 of the Act (guidance) requires review partners to have regard to any guidance issued by the Secretary of State in connection with functions conferred on them under sections 24 to 31 of the Act. As required by that section, consultation in relation to the OWHR statutory guidance will be carried out with persons appearing to the Secretary of State to represent review partners, Ministers of the devolved Welsh Government (in as far as the proposed guidance relates to a devolved Welsh authority) and with other persons the Secretary of State considers appropriate. Consultation will be carried out for 4-6 weeks, prior to the start of the pilot.

11. Guidance

11.1 OWHR draft statutory guidance was published on 14 December 2021 at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1040762/Draft_OWHR_Guidance.pdf . A final version will be published and laid in Parliament in advance of the start of the pilot.

12. Impact

12.1 There is no significant impact on business, charities or voluntary bodies. The policy involves no routine costs to businesses. Employees from a private sector organisation may occasionally be asked to give evidence for a review, however as these costs are likely to be negligible, no attempt has been made to estimate the proportion of the total cost that is likely to fall on private businesses.

12.2 There is no significant impact on the public sector. The impact will be limited to the relevant review partners and independent chairs conducting the reviews as well as wider partners in the pilot areas providing evidence for the reviews. It has been estimated that 72 OWHRs may take place across the pilot areas throughout the 18 month pilot. This includes a 20% optimism bias to ensure funding for all necessary reviews is available. Costs to the Home Office pre review have been estimated as £1,222 to each of the three relevant review partners (totalling £3,666) and £8,688 for an independent chair. Combined with estimated costs for recruitment, training, the OWHR Oversight Board and secretariat, the total estimated costs of OWHR implementation and the pilot is £2.1 million between 2022-2025.

12.3 An impact assessment was prepared in relation to the Police, Crime, Sentencing and Courts Bill. A copy of the impact assessment is available at https://bills.parliament.uk/publications/42136/documents/489 .

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 The approach to monitoring of this instrument is as follows. Under section 34 of Act (piloting), OWHRs must be piloted, and a report must be laid before Parliament on

[3] South Wales and parts of London and the West Midlands

some or all of the operation of the provisions before rollout across England and Wales. A pilot evaluation will be carried out to inform the report.

14.2 The instrument does not require a statutory review clause.

15. Contact

15.1 Jo Harrison, Home Office, 5th Floor Fry Building, 2 Marsham Street, London, SW1P 4DF email: Jo.Harrison@homeoffice.gov.uk telephone: 07818 555 139 can be contacted with any queries regarding the instrument.

15.2 Nick Hunt, Head of Unit for the Firearms Policy Unit, Home Office, 5th Floor Fry Building, 2 Marsham Street, London, SW1P 4DF email: Nick.Hunt3@homeoffice.gov.uk telephone: 07879 809183 can confirm that this Explanatory Memorandum meets the required standard.

15.3 The Minister of State for Crime and Policing at the Home Office can confirm that this Explanatory Memorandum meets the required standard.