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## **FIRST CLASS**

Dear Sirs,

### **Consultations on “Tackling Knife Crime”**

I refer to the above consultation paper issued in June. As the majority of the proposals related to the licensing of the sale of non-domestic knives and swords, the paper has been considered by the Council’s Licensing Committee. Consultation has also taken place with the Council’s Trading Standards and Environmental Health teams.

The following responses are made –

#### **Q1 Should a licence be needed to sell non-domestic knives?**

No. Whilst appreciating the dangers and effects on society due to the carrying of knives, the Committee did not consider that the licensing of the sale of “non domestic knives” would be particularly effective in curtailing the carrying and use of knives.

The Consultation paper sets out the existing law on the sale or carrying of knives and the proposals to double the criminal penalties for carrying knives are welcomed. The report also highlights that the carrying and use of knives was a complex matter with several inter-related causes. It is of interest that the paper refers to research presently being carried out in Strathclyde to establish why many young men carry knives and the triggers for violence using knives. For any licensing regime to be successful it is necessary that those drafting it are clear as to the reasons the regime is required. This is particularly relevant when deciding on conditions to be attached to any licences. It is therefore suggested that the question as to whether a licensing regime be introduced or not be deferred until the results of such research are known.

The view of the Committee was that if young men were determined to obtain knives, for whatever reason, they would still be able to acquire dangerous knives. This is particularly so given that it would still be permissible to purchase domestic knives, some of which are large and dangerous. The sale of flick and similar knives is already banned, yet the paper refers to their increasing use. Presumably these are purchased on the black market. There would be nothing to prevent the continued sale of such knives on the black market even after a licensing regime was introduced.

It may be that the time, effort and expense could be better utilised in providing additional resources to the police to use the proposed greater power to search for knives and to the Procurator Fiscal and Courts to deal with persons found possessing any type of knives in inappropriate situations. In addition, if the aforementioned mentioned research indicates why young men are increasingly carrying knives in certain parts of Scotland, resources could be applied in tackling those areas directly.

Although not given as an option in the Consultation paper, if the problem appears to be mainly occurring in the west of Scotland, rather than make the licensing of the sale of non domestic knives an mandatory licensing activity, could thought be given to making it a discretionary licensing activity? This would allow each council, in consultation with the police, to decide whether there was any merit in operating such a licensing regime in its own area. The control of knives will probably already form part of an overall strategy to combat crime in every council and police authority area. A licensing regime voluntarily introduced by a council and supported by the local police authority would tend to be more successful than one forced on to a council by central government, if there is no perceived major difficulty with such knives in that area. Most licensing activities under the Civic Government (Scotland) Act 1982 are already licensed on such a basis (the only exceptions being Houses of Multiple Occupation, Scrap Metal Dealers and Indoor Sports Entertainment licences). Whilst not disregarding the potential threats caused by person carrying knives, there appears to be little reason to make it a mandatory licensing activity.

## **Q2 What should be covered by a definition of a “non-domestic knife”?**

The difficulty with any definition is that it requires to be clear and precise to avoid any legal challenge. The definition suggested - "*A knife which has a blade or sharp point, and which is not designed only for domestic use, or only for use in the processing, preparation or consumption of food.*" does present a potential difficulty, due to the use of the word "designed". In an effort to avoid the licensing regime, could an unscrupulous retailer repackage a combat knife as a "domestic" knife? If this was the case, the Procurator Fiscal, in attempting to prove that the knife was a "non-domestic knife", would have to show who manufactured the knife. How could he prove what was in the mind of the manufacturer and what was it designed to do? This may be difficult. Perhaps an alternative concept would be to refer to the description used in any advertising or packaging, but this again could be subject to avoidance.

As a possible suggestion, if the Executive establish that certain types of knives are preferred by young men, could any legislation refer to "controlled knives" or some other description. The Executive could then have powers to make regulations to include particular types, makes, designs and sizes of knives within the definition of "controlled knives". This would make it clear to retailers, the police and courts what

knives were controlled. It would, however, be expensive for the Scottish Executive to keep up to date with new designs.

The difficulty in establishing a straightforward and clear definition of a “non-domestic” knife illustrates the problems that would be encountered in licensing the sale of such knives.

**Q3A Are the suggested conditions of license reasonable?**

**Q3B Should there be any additional conditions of licence?**

There was very little comment as to the reasonableness or otherwise of the suggested conditions, as these would be of the type required to lead to effective control of the sale of such knives.

**Q4 What would be the costs for businesses of licensing the sale of knives?**

The Committee expressed concerns as to the impact on retailers in Aberdeen. It is estimated that a large number of shops, around 40 or 50 would require to be licensed. A large number of retailers supply the offshore oil and fishing industries and the hunting and sport fishing sectors. Much would depend on the exact conditions imposed by the licensing regime. Retailers would have to set up systems and train staff to comply with the licensing system.

The Council would probably require to employ more staff to deal with licence applications and to monitor and enforce the licensing requirements. The costs of such additional staff would require to be met by the application fees paid by retailers. It is difficult to estimate the level of application fees, but the most similar type of licence to the proposed system would that of licensing second hand dealers. Second hand dealers have to maintain records as to the persons selling goods to them. Such a licence in Aberdeen presently costs £167 for a 3 year period. Licensed non-domestic knife retailers may have to pay more than this to cover increased monitoring.

The Council's Environmental Health and Trading Standards officers are involved in monitoring certain other types of businesses licensed under the 1982 Act. They regard their involvement in such businesses as part of the duties they already have as to public safety and consumer protection respectively. Both sets of officers have queried whether it would be appropriate for them to be involved in monitoring persons licensed to sell non-domestic knives, as this relates more to the prevention of crime. They have both queried whether it might be more appropriate for the police to take the lead role in monitoring such businesses on a day to day business, given their similar involvement in the licensing and control of firearms. If this were to be the case, it is important to remember that the police costs cannot be passed on to the applicants by their application fees. The Council's own licensing officers may have to liaise closely in any event with the police and any hearings to grant, suspend or remove licences will require additional work and therefore add to retailers' costs due to increased application fees.

**Q5 Should it be a criminal offence to purchase a (non-domestic) knife from an unlicensed seller?**

This may be of assistance in some cases. It should also be an offence to provide false identification to a licensed dealer.

**Q6 Should shops require a license to sell swords?**

**Q7 Should the sale of swords by shops be restricted to require them to sell only to members of approved organisations?**

**Q8 Should the sale of swords be banned?**

**Q9 If so, should there be any groups who are exempted from that ban ( i.e. should there be any reasons/uses for which it remains legitimate to sell swords)?**

**Q10 Should the sale of only samurai swords be banned?**

**Q11 If so, should any groups of people be exempt from that ban ( i.e. should there be any reasons/uses for which it remains legitimate to sell samurai swords)?**

**Q12 How should a samurai sword be defined?**

**Q13 Is there a case for individual licenses for the purchase of swords?**

There was little comment in relation to the above, although there was concern that persons genuinely using such swords for sporting or cultural activities should not find it impossible to obtain swords for use in these activities.

I hope this is of assistance.

Yours sincerely

**Donald Macleod**  
**Solicitor**  
**District Court/Licensing Team**