

**TKC010**

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Dear Sirs,

I am responding to the Consultation paper on 'Tackling knife crime – a consultation' introduced by Cathy Jamieson MSP, Minister for Justice. I am responding for three reasons – I am of Scottish descent and proud of this, in the immediate future I may be a resident of Scotland and am currently in the process of determining this, and I am a private individual with the history and culture of Scotland as part of my heart.

The consultation paper lists 13 consultation questions, and my letter responds to both the paper in general and all these questions in particular.

Ms. Jamieson in her introduction mentions there are no quick fixes, no simple one-off solutions to violence and its many causes. I applaud this view – a knee-jerk response serves only a politicians short term interests and the fickle public memory, and it can do more long term harm than good, e.g. it may alienate the very people who can do most to tackle the problem at source.

When responding to a problem care is needed on three counts – (1) removing free-will and free-choice should only be done as a last possible extreme measure, even more so in a supposedly free democratic society. (2) It may be easy to pass a law, but compliance with it depends primarily upon public acceptance, with the will by the police to support it and use it, and for the courts to prosecute and pass suitable deterrent sentences, and last but by no means least with favourable reporting by the media. A considered problem response taking into account all views expressed is the surest way to success for this point. (3) In response to a problem a 'ban' may look good on paper but in reality it may only exacerbate and/or move the problem and not solve it at all – in part or whole. By this I mean there is obviously a problem with edged weapons being used by a minority for violent purposes. (A) By banning said items, it adds to the kudos of the article carried by the violent minority 'this thing is so good they've banned it' so this can then actually create a desire for ownership where none existed before so the problem becomes worse (proof: no public crime was ever committed by a legally held handgun, yet banning handguns has only seen their use soar by criminals). (B) The persons carrying the violent crime will continue to do so if the only approach to the problem is to ban a particular article. All that may happen is that an alternative item will be used as an item of assault or violence instead – a screwdriver, hammer, hockey stick, stolen vehicle, piece of wood, brick, nail, coins are but some things that can all be used for harmful purpose if the intent is there. In fact almost any item from a pencil upwards can be used malevolently, so what I am saying is that a ban is not the answer.

As one of several suggestions contained within this letter, may I offer the following: that where a particular crime, e.g. knife crime, rises to a certain level of incidence (xx number of assaults per 1000 persons in a particular defined postcode area) then that area is designated as such in Parliament until the crime falls below a certain level. Within the defined postcode area the police then have a right to stop and search anyone if they suspect a weapon is carried without good reason (good reason could be carrying a historical item or replica thereof for re-enactment, for display, for a lecture, for practice as in fencing, as part of historical costume being worn). This targets the efforts of police where they are likely to be most effective, and addresses the rights of civilians not to be harassed – no defined high crime area equals no unwelcome attention from the authorities.

For the sake of clarity and not having to repeat myself later in this letter, I offer the following comments and definitions for particular items.

**Ref: X1 - a domestic knife:** a single edged cutting implement, designed and manufactured for tasks internal and/or external to a domestic household, or a single edged cutting implement, designed and manufactured for culinary tasks in a commercial restaurant or place of meat or food preparation. The length of the blade will not exceed 31cm / 12", the maximum thickness of the blade will not exceed 1cm / 3/8", the depth of the blade is undefined to allow incorporation of a 'cleaver' into the same definition as a knife.

**Ref X2 – The US system:** The US have a system I would urge you to consider, that if a knife has 'no sporting purpose' then the carrying of one is deemed illegal. I venture such a definition used for Scotland should actually say 'a knife that has no sporting purpose or has no known legitimate usage or is without a Scottish historical association' is not legal to carry on the person. Rescue knives, diving knives, domestic knives, skinning knives, multi-function tools, small multi-purpose knives and the extremely significant, historically vital, part of Scotland's past present and future, part of Scotland's soul the dirk and sgian dubh, which are all a necessary part of everyday life thus remain legal – with the attached rider 'carried for a valid purpose'. Thus the paramedic has his rescue knife, the scuba diver his item of to cut his way out of life-threatening entanglement, the house-person carves the Sunday joint, the hunter and fisherman ends to their prey, the driver broken-down in a remote locality tends to the problem with a multi-purpose tool, and a kilted person with Balmoral and sporrán can wear the dirk and sgian dubh with pride.

**Ref X3 - a knife:** a cutting implement, primarily intended or made for use with one hand, the blade not longer than 38cm / 15", single or double edged, the blade thickness not exceeding 1cm / 3/8" the blade depth not exceeding 10cm / 4" with a handle not longer than 18cm / 7". The blade may be fixed or folding, and may be part of a item containing other tools and implements.

**Ref X4 - an item without valid purpose:** a knife that has no sporting purpose or no known legitimate usage or is without a Scottish historical association would include:

- an item designed or intended as a 'push dagger', or as a 'stiletto'
- an item less than 50 years old designed specifically and solely for combat but excluding such items 60 years old or older (or true replicas thereof less than 60 years old manufactured and sold in Scotland or manufactured elsewhere and sold directly/retail from a Scottish business premises)
- an item designed particularly or primarily for stabbing, or for combat, or for fighting.

n.b. this definition covers WWI and WWII items or true replicas thereof allowing legal ownership (for purpose of collection, or display or historical interest?)

**Ref X5 - A Japanese sword:** a katana or a similar style of sword be it full-length or shorter, and includes items known as a 'ninja' sword or a tanto or that commonly referred to as a samurai sword. A specific type of curved or straight edged, single-edged sword as traditionally used by the Japanese Samurai, and forged in a particular manner commonly known as differential temper (the cutting edge is harder than the unsharpened edge) and may have a distinctive angular point. A cutting, striking or thrusting implement with a long fixed blade and a handle but without a crosspiece or guard between the handle and blade, customarily having a blade longer than 38cm / 15"

**Ref X6 - A Dirk:** a cutting implement of Scottish historical integrity or Regimental historical integrity or manufactured in Scotland or manufactured elsewhere and sold directly/retail from a Scottish business premises, a Ballock knife circa 1700 or copy thereof, a long bladed item similar to a knife having a fixed blade, usually single edged, with a blade of uniform shape or triangular in side view as per a Ballock knife, having a blade length not less than 21cm / 8" and not longer than 46cm / 18", a blade depth not deeper than 10cm / 4" and a blade thickness not greater than 1 cm / 3/8". The integral handle size will be of a length not less than 10cm / 4", and may be of a relatively plain design for a Ballock type or of more ornate or carved design and may be decorated and have inlays, and will be of a hard substance, typically being wood, possibly having traditional Scottish embellishments or adornments such as a crystal or similar or the top of the handle. A 'regimental dirk' will be of a design as worn by military regiments. A Dirk or Ballock item will have a purpose made sheath, typically made of leather for a Ballock item or a hard substance such as wood which may continue the ornate design, decoration and inlays of the handle, and the ensembled dirk and sheath or Ballock item and sheath is designed to be worn with the kilt.

**Ref X7: - A Sgian Dubh:** an item of Scottish historical integrity or Regimental historical integrity or manufactured and sold in Scotland or manufactured elsewhere and sold directly/retail from a Scottish business premises; being single-edged, pointed, with a fixed blade not exceeding 10cm / 4" in length or exceeding a blade depth of 5cm / 2" or exceeding a blade thickness of 8mm / 1/4" and customarily having the unsharpened edge scalloped or of a similar embellishment. Having a handle not less than 7.5cm / 3" in length and usually of ornate design or of a carved or turned substance such as wood, possibly having traditional Scottish embellishments or adornments such as a crystal or similar or the top of the handle. Having a sheath either of a design than continues the theme of the handle (e.g. a regimental sgian dubh, or a sheath of wood with embellishments) or being of leather – and the sheath has no fixings for attaching to a belt or similar – the sheath purpose being such that it covers the blade and is held in place by friction and compression grip when worn in kilt hose,

**Ref X8 - A Sword:** a cutting, striking or thrusting implement with a long fixed blade having one or two cutting edges a hilt or handle and usually with a crosspiece or guard or a defining feature between the hilt and blade, designed for use with one hand or two hands, customarily having a blade longer than 38cm / 15", a blade depth greater than 3cm / 1 1/4", the blade width will customarily be 4mm / 1/8" or greater but rapier swords and fencing swords may prove to be exceptions, having a hilt or handle length of 10cm / 4" or greater, includes such items known as a broadsword or cutlass or claymore. Note that rapiers swords and fencing swords may not have a cutting edge or edges.

I would be pleased to offer further opinions as to definitions of items.

To return to the main theme of my letter in providing a response to the consultation paper, I venture that It is perfectly legitimate to carry some types of knives as a status symbol and I quote here the wearing of a sgian dubh in kilt hose as evidence. To say a knife is primarily offensive is blurring the truth to the extent of a lie – a knife is a tool and just as there are thousands of different tools so does the design of knives vary tremendously. I would agree however that something as described under **Ref X4 - an item without valid purpose** this may well be an offensive thing. The carrying of a knife per se is no different to carrying any other tool – it is the intent of the carrier that defines if an article could be considered a weapon for illicit purpose. I also consider it is reasonable that sgian dubh and dirk can be worn openly as part of Scottish costume and a folding or locking knife with a blade under say 10cm / 4” especially if such a blade is part of a multi-tool, could be carried ‘with valid reason’, the circumstances being part of the reason e.g. motorcycles have little room for tools and breakdown equipment, a multi-tool is a wise investment especially if carried at all times .....

To borrow someone else’s words “to ban the sword would be like taking the air or the heather or the whisky out of Scotland”. It has highly unpleasant undertones, invoking memories of not that many generations ago, and it would also be considered a criminal act to take away such an important and structural part of Scotland’s heritage. Whilst I could comment on replica Japanese swords being said to be ‘concealable and portable’ that really is a side issue. The nub of the problem seems to be large edged weapons are being used for violence – especially cheap replicas of Japanese swords.

The consultation paper has also mentioned that a state in Australia has forbidden swords, the implication being that if something has been done there, it could be done in Scotland. Well, what’s good for the goose is good for the gander, so by the same implication all that is allowable in a particular state in Australia is also allowed in Scotland. I look forward to many restrictions in Scotland being removed ..... My point being that what has been enacted elsewhere is not a justification for saying the same thing can be enacted in Scotland.

So for swords as a practical remedy I would suggest you borrow from the French in that they allow true replicas of black-powder arms to be freely available – I suggest therefore that true replicas of swords be allowed. As traditional Japanese katanas (samurai swords) are forged and produced using differential temper, this is process for a true craftsman and not possible by cheap mass-production techniques. Such swords retail at prices of £1000 and far beyond, and by virtue of being hand-made it would be easy to incorporate a unique number or indentifying symbol, so a record could be kept of whom it was sold to. As the cheap mass produced items would not qualify for sale as being a true replica, this would address the problem of such things being freely available. A more traditional type of sword, say from Roman times onwards, again being hand made, retail at prices of £450 and far far beyond, and similar comments apply. Furthermore – with a record of whom an item has been sold to, having to pay a high price, having to commission the item from an artisan and perhaps wait 10 months for it to be produced, this does not fit the profile of the young offender in question here, nor is it likely to fit to anyone considering using violence as part of their everyday life. And finally, the size of swords per se make it very difficult indeed to carry discreetly or covertly – the overt wearing of one a part of a costume makes the wearer doubly noticeable (costume and sword) and thus highly improbable indeed such a person is intending violence.

The sgian dubh I propose should be defined as different from a knife as per **Ref X7: - A Sgian Dubh** and thus may be carried or worn if with good reason (e.g. a working tool, part of costume or kilt hose worn).

To ban carrying all knives across the board is a knee-jerk reaction that bodes no good for anyone, nor does doubling a penalty, nor does giving the police sweeping powers which when misused only serve to alienate the public, and without public support how can proposals succeed? A tactic such as a ban removes the right of many people who have need of a knife, examples of which I have already given, but to reiterate includes paramedics, fisherman, hunters, campers. However, I am of the mind it seems a good idea to prevent direct public sales of knives with blades over say 7.5cm / 3" to persons under the age of 18, but the gifting of such items could be to persons of 16 or over. I would draw your attention to the noble and Olympic sport of fencing which would need to be addressed – such particular swords could be used by persons of a very tender age in competition, and so an exemption should be built in, and rapiers also could be part of the definition and exemption?

I believe a licensing scheme for sale of knives is a real non-starter – I would refer you to my earlier comments in that this would just move the problem elsewhere – either another implement would become the weapon of choice or domestic knives would be used instead, so this idea is unworkable and unrealistic. By all means it seems reasonable for a purchaser to prove identity and age, and a record kept of to whom an item has been sold, but keep in mind a piece of metal with a file or grind wheel has the potential to be turned into a dagger – so is it not better to allow a sale and have a record of it, or for an unidentifiable nasty thing to be home-produced? Perhaps I should make it clear I do not support licensing for similar reasons, age, identity and sale record are more than enough.

The following are quotes from the consultation paper -

“19. That definition would extend to dual- or multi-function knives, where any one of those functions related to a non-domestic purpose. For example a ‘hunting’ knife might be used for ‘food preparation’ but, since it is also designed for non-domestic use, it would be subject to the restrictions proposed in this paper.

20. Existing legislation in this area refers to “knives and other articles with blades or points”. The distinguishing feature of those items that we wish to control is not that they are commonly called “knives” but that they are bladed or pointed, and therefore have the potential to harm others. References in this consultation paper to “knives” are therefore used as a shorthand for any similarly bladed or pointed article or implement.”

For reasons described earlier, I object to para. 19, and also for the reason I believe such a proposal to be unworkable. For para. 20 I must strongly object to the wording and implications therein that encompasses anything bladed or pointed. My pencil-sharpener is bladed, my wife’s cheese-grater has the potential to harm, and my ready-to-use pencil and fine-pointed technical drawing pen are pointed articles, possibly sharp. My electrical screwdrivers are fine pointed, some with long tangs, some of my heavy-duty screwdrivers are indeed implements, my wire-cutters have sharp edges or blades. This echoes my earlier comments that any article can be mis-used for ill-purpose so I implore and demand equally that not only is the intention of any legislation made clear but also any wording that accompanies it. I reiterate and extend my offer of defining or assisting to define various definitions that may be needed.

## Consultation Paper - SECTION 2

Within this part of the consultation paper, it would seem reasonable for a national *register* to be kept of persons or businesses trading in the manufacture and or sale of all edged items (domestic-use intended knives, other knives and swords) and for records to be kept of the sale of such items, and for reasonable caution to be displayed when selling such items. e.g. by mail order, a signed declaration as to minimum age be made (obviously the address is known), for across-the-counter proof of age could be requested when doubt may exist as to minimum age.

Some of the other proposals are, shall I say politely, a little extreme and are of dubious legality in themselves bearing in mind EU regulations of free competition and citizens rights. Additionally they would be difficult if not practically impossible to enforce.

By introducing any restriction other than that suggested in this letter, this would unnecessarily restrict or adversely impact on heritage, cultural, tradition sporting, historical research, collectors and dramatic activities. The tourist industry would also suffer negatively. The consultation paper already recognises Re-enactment, Martial arts, Sword manufacturers, Historical and sport fencing, Scottish Highland dancing, Film and theatre, Religion. I would further ask for recognition of: historical interest, historical research, private collection, museum artefacts, displays and exhibitions, items as part of costume or style of dress worn, ceremonies, public displays, items used as sales aids for other products (displaying a sword against kilts, sporrans, other Scots articles), souvenirs for visitors, collectors of military articles, displays in castles, articles as part of a clan history, replacement of articles in any category mentioned, articles for exportation (a popular item breeds further popularity thereby increasing export sales).

### Consultation questions:

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

NO

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

Is there in fact a need for such a definition to exist, why not instead use the definition supplied under **Ref X4 - an item without valid purpose**

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

NO

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

NO

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

There should be no costs, these should be borne direct by government for the reason they are the ones eroding individual freedoms.

#### **Q5 Should it be a criminal offence to purchase a (nondomestic) knife from an unlicensed seller?**

NO (e.g. second-hand sales, private sales, inheritance, gifts)

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

NO, but it may be reasonable to maintain a national register of shops that deal in swords.

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

NO. For all the reasons foregoing in this letter, additionally such a proposal gives way to further 'creeping' legislation which is a distasteful method at best. By allowing only originals or true copies of swords, this is similar in context to French legislation as described and if a record is kept of sales made this addresses current and future concerns with a minimum of government interference and heavy-handedness - and so gains public support not public alienation.

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

NO, reasons as given

**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)?**

All groups should be exempted.

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

NO solely providing said item is a historic original or a true copy, definitions and explanations as given

**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)?**

All groups should be able to claim an exemption

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

As defined under **Ref X5 - A Japanese sword**: a katana or a similar style of sword be it full-length or shorter, and includes items known as a 'ninja' sword or a tanto or that commonly referred to as a samurai sword. A specific type of curved or straight edged, single-edged sword as traditionally used by the Japanese Samurai, and forged in a particular manner commonly known as differential temper (the cutting edge is harder than the unsharpened edge) and may have a distinctive angular point. A cutting, striking or thrusting implement with a long fixed blade and a handle but without a crosspiece or guard between the handle and blade, customarily having a blade longer than 38cm / 15"

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

NO reasons as given in this letter

This concludes my letter, I thank you for reading it and look forward to receiving your comments in due course.

As requested, I have separately completed and forwarded with letter 'Annex C'.

Yours faithfully,

***Alan DuJon***

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