

TKC157

BBD Scotland

7 West Court
Ravelston House Park
Edinburgh
EH4 3NP
Tel: 07887601682
email: info@tenchi.org.uk

Dear Sirs,

Please find attached my response to “Tackling Knife Crime? A Consultation” which I am submitting as the Senior Instructor of BBD Scotland.

BBD Scotland is a not-for-profit Martial Arts organisation that has been established since 1985. I have been group leader since 1989 and I have included the comments of my fellow instructors and students, as they are all concerned by the effect of the proposed legislation.

Our overall opinion is that these proposals are tackling the wrong issues and would appear to be based on a limited Media inspired view of the problem rather than any hard data. Anecdotal evidence makes poor law.

None of the statistics indicate any causal link between availability and use (or misuse) of bladed weapons. There is a massive discrepancy in the Murder figures between Scottish cities. The rate in Glasgow is approximately 4 times that of Aberdeen Dundee or Edinburgh yet weapons are equally available in all these cities.

I am personally uneasy with the racially discriminatory implication that the Japanese sword is bad compared to say a Scottish or Chinese sword. There is a very strong cultural and spiritual connection for people practicing Japanese martial arts and the Samurai sword.

Any of the above measures will only serve to inconvenience law-abiding citizens. Murder and assault are already crimes. Carrying any of these weapons without good reason is a crime.

The case for additional legislation against swords or knives is not made by any of the available data.

Yours Faithfully

Angus Neilson
Yondan Shidoshi-ho, Bujinkan Ninpo Taijutsu
BBD Scotland Group Leader.

Response to consultation on Tackling Knife Crime

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

This is a complicated question as it revolves around the issue of what constitutes a non-domestic knife. This description could include anything from a model maker's scalpel through a carpet fitter's 'Stanley' knife to a sickle used in the garden.

It is of note that the statistics included with the consultation include no breakdown as to what type or classification of sharp instruments have been used and it is our understanding that the majority of bladed items that are used in violent crime and, specifically, homicides are those which have a legitimate and common purpose in everyday life (e.g. kitchen knife, Stanley knife etc.).

Alcohol Concern's recent research indicates that Glass injuries represent 80% of assaults dealt with by A&E departments where sharp objects were the cause of injury.

The Scottish Executive admits freely that figures are inconclusive on actual use of the weapons.

"The statistics available centrally on crimes of assault recorded by the police do not distinguish the circumstances of the assault, such as the type of any weapon involved." - Cathy Jamieson, (*Written Answers*), December 2004.

So based on the evidence existing it seems that non-domestic knives have yet to be identified as a problem.

Accordingly, it does not seem likely that licensing retailers will reduce the number of sharp items of this type being used in crime and there will remain a consistent and large demand for these items for legitimate purposes.

Additionally, existing legislation provides adequate enforcement measures, in terms of possession of an offensive weapon etc., to effectively address those who carry this type of sharp item for non-legitimate purposes.

It is therefore our view that this approach will not produce a significant reduction in either the quantity of sharp item available or their use for non-legitimate purposes and that licences should not be required for the sale of non-domestic knives.

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

As described in the response to Q1 above, this is a complicated issue.

The 1988 Criminal Justice Act prohibits the purchase, selling, manufacture etc. of bladed weapons for which the government can see no legitimate purpose.

This act also illustrates the problem of defining weapons as it includes a definition “*a length of rope, cord, wire or chain fastened at each end to a hard weight or hand grip*” to define one banned weapon – this could also be interpreted as a skipping rope.

If it is the intention to define non-domestic as that which is not normally found within a household, then this would still leave knives which are used in food preparation, gardening, DIY, hobbies, etc. and which, we understand, are commonly used in assaults and homicides.

Additionally, knives that are designed for animal butchering in the field, camping and outdoor pursuits, diving, other outdoor pursuits etc. would also be legitimately be found in many households but might fall out with any decided definition.

It is, therefore, our view that it would not be practical to define ‘non domestic’ knives in any meaningful way that would achieve any significant reduction in levels of knife crime.

Q3A Are the suggested conditions of licence reasonable?

The approach being consulted upon might appear, at first inspection, to be viable.

However, it is our view that a licence scheme of this nature will be expensive to operate, will reduce the number of retailers prepared to pay the costs which would therefore reduce competition and would, therefore, lead to increased costs to legitimate purchasers.

Additionally, as detailed at Q2 above, the types of knives likely to be covered all have legitimate uses and it would, therefore, be a straightforward matter for those with illegitimate intent to obtain such knives under the premise of the knife’s legitimate purpose.

It is, therefore, our view that the proposed conditions of licence will have no significant impact on knife crime and will increase costs, reduce competition and adversely affect the public as consumers and legitimate users of the items in question.

Q3B Should there be any additional conditions of licence?

As per Q3A above.

Q4 What would the costs of businesses of licensing the sale of knives?

Without clear indications as to the type of conditions, which would be imposed upon retailers, it is not clear what the specific costs would be.

However, the costs to local authorities of setting up, operating and enforcing (even if via the police) such a scheme would be significant and there would be an expectation from the authority (and police) that the costs would be recovered and it therefore follows that the costs of licences would be significant.

This will also create a disproportionate trading environment throughout the UK, with non-Scottish retailers being subjected to costs that their competitors elsewhere in the UK will not.

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

It is unclear from the consultation document how it is intended for this approach to operate.

The public expect the regulation of licences to be undertaken by the authorities and, should the licensing of non-domestic knife sellers be implemented, consumers would expect sellers to be in possession of a licence in the same way that they would expect premises selling alcohol to be licensed.

Under these circumstances, it is hard to see what benefit society would obtain from the consumer being punished and criminalised.

Additionally, the consultation fails to deal with how the purchase of these items elsewhere in the UK will be addressed.

It is, therefore, our view that no such offence should be created but that, if it were, adequate protection be given in law to preclude prosecution of those who were unaware that no licence was in place.

Q6 Should shops require a license to sell swords?

As previously detailed in the responses to Q1, Q3A, Q3B & Q4 above, the premise of licences for the selling of blades is likely to be expensive, reduce competition, be ineffective in reducing blade related crime and will penalise legitimate users.

In the case of swords, these items are extensively covered under existing offensive weapons legislation and statutory instruments and, additionally, incidences of violence involving swords are very low, although press coverage involving hyperbolae and sensationalist reporting by various agencies gives a misleading impression in this regard.

Therefore, the licensing of the selling of swords will make no significant difference to the situation, especially as the purchase of these items in the rest of the UK will not be restricted as it will be in Scotland.

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

This question centres around what organisations are 'approved', on what basis 'approval' is granted and what the costs of gaining 'approval' will be.

Whilst this organisation cannot comment upon the specific details as none have been provided within this consultation, we would make the following general points:

Cost

The vast majority of martial arts 'organisations' are small and do not run on any sort of commercial basis with costs of operation being met by members from their own pockets. Additionally, many practitioners of martial arts do not have spare financial resources available to them (indeed many are on benefit level income) and additional costs being incurred in terms of complying with 'approval' schemes operated by local authorities will inevitably result in practitioners being unable to afford to continue their participation and the consequential loss of all the benefits that martial arts bring to their, and others', lives.

Definition of Martial Arts

The plethora of martial arts 'styles' and 'schools' that exist within the martial arts community, both within Scotland and throughout the world, would make it very difficult to identify a set of criteria that all legitimate martial arts would meet. Indeed, this subject is one of great discussion and debate throughout the martial arts community. Any attempt to generate a definition of 'martial arts associations' that would be used in 'approval' will inevitably result in large numbers of schools (especially smaller ones), for whom the study of the sword is an historical and important element, failing to achieve the necessary 'approval'.

There is also a significant risk of elements of the martial arts community who are 'financially motivated' seeking to influence the process of 'approval' so that only those organisations who are affiliated to their organisations (at an inevitable financial cost) from being 'approved'. The Executive should be aware of this issue and ensure that this is not permitted to happen as this will inevitably lead to a reduction in the diversity and quality of martial arts schools within Scotland as well as reducing or removing the opportunity for those of limited financial means of finding schools that provide training on pro bono or affordability basis.

Responsibility

One of the few things that all reputable martial arts do it to instil a sense of responsibility into the students who train and to teach only to the appropriate level for the student. In the specific case of sword based training, students of reputable arts are taught for many years using bamboo swords and wooden facsimiles of metal swords. Only when the student has exhibited the required level of responsibility as well as technical expertise are they permitted to train with 'live' weapons.

However, it would be unreasonable of the Executive to determine that a teacher was responsible for the conduct of a student and require they accept that responsibility. As an analogy, would the Executive hold a driving instructor responsible for a student who chooses to run someone over? In both cases the teacher imparts skills that allow for the development of the student. However, when the student misdirects the knowledge imparted in a malevolent manner, harm is done.

Q8 Should the sale of swords be banned?

We, as an organisation, would express our appreciation that the Executive, in carrying out this consultation, has recognised that many members of our society have legitimate reasons for purchasing and using swords for a variety of purposes.

As one such organisation, the Martial Art which we study (in common with many other Martial Arts) has, as an element, studied the sword for hundreds of years. This study brings many benefits to the practitioner, including the development of discipline, humility, compassion, understanding, responsibility, awareness of the need to participate and contribute positively to society as well as a spiritual element, all of which enhance and improve the individuals undertaking the study.

As such, we would state that our view is that swords should not be banned.

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

Notwithstanding the response to Q8 above, if it is determined that swords should be banned, it is the view of this organisation that there are groups who should be exempted from the ban.

In our case, we would argue that Martial Arts should be exempted from the ban for the same reasons that we argue that swords should not be banned (Q8 above) i.e. that the use of the sword in training provides the practitioner with the development of discipline, humility, compassion, understanding, responsibility, awareness of the need to participate and contribute positively to society as well as a spiritual element, all of which enhance and improve the individuals undertaking the study and banning their use would have a detrimental impact on the individuals concerned as to society in general.

Q10 Should the sale of only samurai swords be banned?

As an organisation whose training involves 'samurai' swords we would argue that the sale of only samurai swords should not be banned for same reasons as detailed in Q8 above.

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)?

Notwithstanding the response to Q10 above, if it is determined that samurai swords should be banned, it is the view of this organisation that there are groups who should be exempted from the ban.

In our case, we would argue that Martial Arts should be exempted from the ban for the same reasons that we argue that swords should not be banned (Q8 above) i.e. that the use of the samurai sword in training provides the practitioner with the development of discipline, humility, compassion, understanding, responsibility, awareness of the need to participate and contribute positively to society as well as a spiritual element, all of which enhance and improve the individuals undertaking the study and banning their use would have a detrimental impact on the individuals concerned as to society in general.

Q12 How should a samurai sword be defined?

This is a Question that we are unable to answer. It is however a paradox that we cannot determine if a samurai swords are a problem if we have yet to define what constitutes a samurai sword.

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

The cost of setting up, operating and enforcing an individual licence scheme would be significant and, as many practitioners of Martial Arts are of limited financial means, this would probably result in large numbers of students being excluded from the opportunity to train in these Arts.

Additionally, those who commit crimes with weapons are very unlikely to hold licences to own those weapons, as is evident in the case of firearms. As such, the requirement to gain an individual licence is not going to produce a measurable impact upon the incidence of sword use in crime.

This approach would require to be applied across the entire UK if it were to be effective and the operation of such a scheme would cost a great deal for little, if any, tangible reduction in crime.

It will also impact on the organisations ability to host training events on behalf of our Parent organisation (BBD). These events help raise the positive profile of Martial Arts. Students and instructors regularly travel from throughout Europe for these events. The impact of legislation on visitors bringing swords especially from England where there is no border control has not even been considered.

Therefore, we would argue that there is no case for the issuing of individual licences for the purchasing of swords.