

TKC098

EAST RENFREWSHIRE COUNCIL

CABINET

Thursday 8th September 2005

Report by Director of Community Services

SCOTTISH EXECUTIVE CONSULTATION - TACKLING KNIFE CRIME

PURPOSE OF REPORT

1. The Scottish Executive Justice Department has embarked on a consultation process to seek views on their proposals to place new restrictions on the sale of knives. The Cabinet is asked to consider and approve responses to the particular questions posed in the consultation document appended to this report.

BACKGROUND

2. Between 2001 and 2003 a total of 346 murders were committed in Scotland with 172 (approximately half) of these resulting from the use of knives. In order to tighten the law and the penalties associated with knife crime the Executive announced a five point plan to strengthen the laws on selling and carrying knives. These included:

- Doubling the penalty for the possession of a knife in a public place, from 2 to 4 years
- Increasing the use of stop and search powers by the police and enhancing police powers of arrest, so that arrests could be made on the suspicion that someone was carrying a knife or an offensive weapon
- Increasing the minimum age at which a knife can be sold to someone from 16 to 18
- Creating a licensing scheme for the sale of non-domestic knives, and
- Banning the sale of swords

3. This paper focuses on the last two points and looks at what more can be done to prevent these potentially dangerous weapons getting into the wrong hands.

CREATING A LICENSING SCHEME FOR THE SALE OF NON-DOMESTIC KNIVES

4. The definition that is being used in relation to a non-domestic knife is " 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".

5. The Executive proposes to introduce a scheme for the sale of knives which have no clear domestic purpose and place a spotlight on any retailers who sell knives irresponsibly. They give examples of conditions to which retailers would need to adhere in the sale or proposed sale of knives. These include;

- Requiring retailers to keep records of those to whom they sell non-domestic knives
- Requiring retailers to obtain photographic evidence of the purchaser's identification
- Regulating the display of knives on the licensed premises e.g. blacked out windows, locked cases
- Requiring a "cooling off" period between any initial approach to purchase and the finalising of the sale
- Requiring retailers to obtain a statement from e.g. a Justice of the Peace, Member of Parliament or professional person confirming purchasers identity
- Requiring retailers to record transactions on CCTV
- Requiring retailers to record a description of the type of knife sold, or
- Identity numbers or other means to identify their merchandise with a shop "marker"

6. The conditions proposed are not intended to prevent anyone from acquiring a non-domestic knife for legitimate purposes such as fishing, hunting or trades or farming but they are intended to deter those with no such legitimate purposes from attempting to buy a knife.

7. Although the creation of a licensing scheme to regulate the sale of knives will place additional demands on retailers and local authorities the Executive views this as a small price to pay for preventing non-domestic knives from getting into the wrong hands.

BANNING THE SALE OF SWORDS

8. *The Parliament of Victoria, Australia, banned the sale of swords in 2004 and their definition of a sword is " being a thrusting, striking or cutting weapon with a long blade having 1 or 2 edges and a halt or handle".*

9. The Scottish Executive recognises the valid use of swords for cultural, sporting or dramatic activities in pursuance in particular of our country's heritage and diversity. They would exempt groups and organisations engaged in cultural, sporting and dramatic activity from the proposed legislation.

10. The Executive however has the power through Section 141 of the Criminal Justice Act 1998 (Offensive Weapons) to add all swords to the Offensive Weapons Order, thereby banning their manufacture, sale, hire or loan.

11. There are three statutory defences to a charge under Section 141 of the Criminal Justice Act 1988

- It is a defence for a person charged to prove that his conduct was only for the purposes of functions carried out on behalf of the Crown or a visiting force;
- It is a defence for a person charged to provide that his conduct was only for the purposes of making the specific weapon available to a museum or gallery;
- It is a defence for a person acting on behalf of a museum or gallery who is charged with hiring or lending a specified weapon to prove that he had reasonable grounds for believing that the person to whom he lent or hired it would use it only for cultural, artistic or educational grounds.

12. A ban on the sale of swords, with the creation of a number of exceptions to that ban, would require substantial primary legislation. As such it would take considerably more time to develop.

13. The consultation is based on the position in Scotland with regard to licensing the sale of non-domestic knives and the potential for a ban on the sale of swords. The consultation does not reflect the potential for the acquisition of non-domestic knives and swords from overseas by mail order or indeed through use of the Internet as purchasing options. It may *not therefore be possible to extend the controls proposed in the Scottish context in the international environment.*

CONSULTATION

14. The consultation asks 13 questions. Key departments of the Council and the Safe Communities Implementation Group have been consulted. Their responses are included in the draft answers to the specific questions set out below.

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

Answer The suggested answer to this is no. It is recognised that knives are used for legitimate purposes other than for domestic use e.g. carpet fitters, joiners, DIY. A licensing burden would mean that hardware shops/outlets would require to be licensed at a time when the government wants to reduce burdens on businesses. If the definition of a non-domestic knife could be amended to exclude knives used for a legitimate commercial purpose then licensing could be feasible.

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

Answer The definition of a non-domestic knife could be amended to exclude knives used for a legitimate commercial purpose.

Q3A Are the suggested conditions of license reasonable?

Answer Yes

Q3B Should there be any additional conditions of license

Answer Retailers should display notices to the effect that they are licensed traders in the sale of non-domestic knives and failure to do so should be regarded as an offence. Retailers should be required to maintain a training register, updated annually, that all sales staff are aware of legislation on the sale of non-domestic knives, and that they are aware of the safeguarding and secure storage requirements of same.

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

Answer The costs would include photographic equipment or CCTV, secure storage/display containers and any licensing fee applied by the local authority

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

Answer Yes, equally however it should be a criminal offence for an unlicensed seller to trade in the sale of non-domestic knives

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

Answer Yes

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

Answer Yes

Q8 *Should the sale of swords be banned?*

Answer Yes

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)?*

Answer Yes, those engaged in sporting, cultural or dramatic activities.

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

Answer No, a samurai sword should be treated in the same manner as any other sword

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)?*

Answer Yes, those engaged in sporting, cultural or dramatic activities

Q12 *How should a samurai sword be defined*

Answer The definition is suggested as follows " a weapon consisting of a long, straight or slightly curved, pointed blade having one or two cutting edges and set to a hilt".

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

Answer Yes

CONCLUSION

15. The consultation addresses the potential of licensing the sale of non-domestic knives to ensure that such implements do not fall into the hands of those who may have non-legitimate intent for their use. It also seeks views on the banning of the sale of swords and highlights some areas for exemption.

16. The consultation does not however address the Internet and/or overseas mail order catalogues which are mediums through which knives and swords may be purchased.

RECOMMENDATION

16. Cabinet is asked to consider the draft consultation responses and draw to the attention of the Executive

1. the potential for purchase of non-domestic knives and swords by individuals using the Internet and overseas mail order catalogues, and,

2. the potential burden on some retailers who may be required to incur costs in compliance with any licensing requirements.

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