

TKC129

RESPONSE
by
THE FACULTY OF ADVOCATES
to
THE SCOTTISH EXECUTIVE
CONSULTATION PAPER
on
TACKLING KNIFE CRIME

COMMITTEE

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The Faculty has been asked to formulate a Response to a Consultation Document by the Scottish Executive on Tackling Knife Crime. The response is attached hereto.

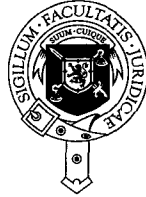
**Edinburgh
SEPTEMBER 2005**

IN NAME OF THE COMMITTEE

J.R. Doherty

Convener

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FACULTY OF ADVOCATES

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The Faculty of Advocates welcomes the opportunity to respond to the Consultation Paper.

Questions 1-5 are concerned with proposals to license the sale of “non-domestic knives”. Having considered these proposals and the statistics set out in Section 1 of the Consultation Paper, we are not in favour of any such licensing scheme. As a sword would come within the definition of a “non-domestic knife”, our response to Questions 6 and 7 of the Consultation Paper is predicated upon that same premise. We have reached this view for the following reasons.

Firstly, we are concerned that the statistics provided in Section 1 of the Consultation Paper fail to provide sufficient detail about the incidence of use of non-domestic knives in crimes of violence. The statistics do not address the proportion of recorded crimes in which such knives are used. Thus, it would appear, the Executive seeks to canvass a response based on a false prospectus. It is our experience that the overwhelming proportion of serious crimes involving the use of knives are committed using domestic knives such as a bread or steak knife, a cleaver or other weapon which would not be covered by the proposed licensing scheme. Any such scheme would be expensive to operate. It would undoubtedly impose a burden on businesses, both in terms of bureaucracy and cost, which would be unjustifiable when balanced against the

identifiable benefit of reducing knife crime. The creation of a criminal offence of purchasing from an unlicensed seller would burden the lower criminal courts and the police – again further expense and bureaucracy - without affecting the incidence of serious knife crime.

In light of the above, our answers to Questions 1-7 are as follows:

1. No.
2. The definition of a non-domestic knife is likely to cause considerable difficulty in practice.
3. We see no need to respond to this in light of Answer 1.
4. We do not consider this to be a matter, which we can answer in any meaningful way but are satisfied that the cost would be onerous and not justified in light of the negligible benefit obtained.
5. Again, we see no need to respond to this in light of Answer 1.
6. As above.
7. As above.

While we were of the view that licensing was not the answer to the problem of knife crime, we considered that some form of control was desirable in much the same way as there is control of the sale of alcohol or pornographic material. Age restrictions in relation to both purchase and sale of knives ought to be made by, for example, making the minimum age for both to be 18. Photographic proof should be required. It was also considered desirable that restrictions on the public display of knives such as are already in place for pornographic material and fireworks ought to be made. This method of “controlled” rather than “licensed” sale could be incorporated into existing legislation thus reducing cost and unnecessary intrusion into commercial life while still meeting some of the objectives of the Executive.

With regard to the Executive’s proposals concerning swords, our response was not unanimous. The following response is that of the majority. The dissenting response is submitted separately.

The Faculty’s view was that there should be an outright ban on the sale of all swords with provision for exempted groups. That view was reached on the basis that swords have only one purpose and that is to threaten or assault. The fact that extensive primary legislation would be required both to ban the sale of swords and to provide exemptions was not considered to be an obstacle. It is both necessary and desirable in order to tackle

the ever-increasing use of swords in serious crime in Scotland. Accordingly, the Faculty answers the remaining questions, as follows:

8. Yes.
9. Yes. It would be for those groups who were of the view that they had a legitimate interest in buying swords to make the appropriate representations to the Executive. Publication of the Executive's proposals should be made and an appropriate period allowed for those representations to be made.
10. No. We could see no good reason for any distinction to be drawn between different types of swords. This would only make the legislation cumbersome and difficult to enforce.
11. Not applicable in light of Answer 10 above.
12. We did not consider it necessary to define a samurai sword in view of our response to Answer 10.
13. No. An outright ban would better serve the aims of the Executive. The Consultation Paper itself highlights potential problems with the licensing proposal such as the expense and difficulty of operating such a scheme and ensuring that such a scheme is effective in preventing swords from getting into the wrong hands. An outright ban was considered preferable.