Tackling Knife Crime:
A Consultation
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MINISTERIAL FOREWORD

As Justice Minister, I want to deliver a safer, stronger Scotland through a more efficient and effective justice system. A justice system that stands up to the scourge of antisocial behaviour. A justice system that tackles the ongoing threat from drugs. A justice system that protects the public, punishes criminals, but offers a second chance to those who need one.

Reducing violent crime – and tackling the “booze and blades” culture that endangers decent communities – remains at the forefront of our drive to improve public safety. Knife crime is an ugly, vicious and unacceptable scar on our society, and one which we are determined to confront. But there are no quick fixes for this problem. There are no simple, one-off solutions to violence and its many causes.

That is why we are tackling this in a number of ways. This paper proposes new restrictions on the sale of knives. This adds to the existing law and the changes proposed in ‘Supporting Police, Protecting Communities’ – which will double the maximum sentences for carrying a knife in public and raise the minimum age for purchase of a knife from 16 to 18.

Of course, criminal laws are just one way of addressing this problem – and will never provide us with the whole solution. That is why ‘Supporting Police, Protecting Communities’ already proposes that we extend the police’s powers of arrest for knife crime offences and why we are working with the police and other agencies, to explore the root causes of this behaviour; to identify preventative measures which can reduce the likelihood of violence; and to develop early interventions, which can help to break cycles of violence and brutality.

By reviewing and updating our laws on knife crime, we can help the police make communities safer by sending a clear message that such misconduct cannot, and will not be tolerated. A clear message that those who persist in flouting the law, and endangering others, can expect to pay a hefty price in our criminal courts.

I welcome your views on these proposals for tightening up our laws on the sale of knives and swords. I am confident that by working with others, we can tackle this problem, so that together, we can drive down knife crime, keep it down, and break its grip on Scotland once and for all.

CATHY JAMIESON MSP
Minister for Justice
SECTION ONE

Background

Knives and swords: The problem?

1. Every year in Scotland, far too many people are badly injured and killed by knives. In 2004, Scotland had the 4th highest incidence of death by violence in the European Union. Year upon year, murder statistics show that knives and other sharp items continue to be the most common method of killing in this country, consistently accounting for around half of all murders each year.

<table>
<thead>
<tr>
<th>Year</th>
<th>Total number of murders</th>
<th>Number of murders with knives</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003</td>
<td>108</td>
<td>55</td>
</tr>
<tr>
<td>2002</td>
<td>128</td>
<td>68</td>
</tr>
<tr>
<td>2001</td>
<td>110</td>
<td>49</td>
</tr>
<tr>
<td>2000</td>
<td>105</td>
<td>43</td>
</tr>
<tr>
<td>1999</td>
<td>119</td>
<td>66</td>
</tr>
<tr>
<td>1998</td>
<td>97</td>
<td>42</td>
</tr>
</tbody>
</table>

2. These continuing high levels of knife crime represent an ugly and destructive aspect of our society and are totally unacceptable. The statistics reflect a far too common view amongst some, that carrying and using knives is a way of displaying strength and gaining respect. And increasingly, the police are reporting the carrying and concealment of fixed blades, lock knives, and other bladed weapons, mainly by young men, particularly in Glasgow and the west of Scotland.

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<tbody>
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<td>Central</td>
<td>53</td>
<td>50</td>
<td>54</td>
<td>70</td>
<td>62</td>
<td>85</td>
</tr>
<tr>
<td>Dumfries &amp; Galloway</td>
<td>37</td>
<td>47</td>
<td>35</td>
<td>32</td>
<td>44</td>
<td>50</td>
</tr>
<tr>
<td>Fife</td>
<td>33</td>
<td>43</td>
<td>41</td>
<td>74</td>
<td>55</td>
<td>58</td>
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<tr>
<td>Grampian</td>
<td>97</td>
<td>74</td>
<td>63</td>
<td>118</td>
<td>102</td>
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<td>Lothian &amp; Borders</td>
<td>271</td>
<td>211</td>
<td>204</td>
<td>278</td>
<td>325</td>
<td>254</td>
</tr>
<tr>
<td>Northern</td>
<td>43</td>
<td>34</td>
<td>31</td>
<td>46</td>
<td>46</td>
<td>53</td>
</tr>
<tr>
<td>Strathclyde</td>
<td>1,397</td>
<td>1,499</td>
<td>1,680</td>
<td>1,939</td>
<td>1,821</td>
<td>2,048</td>
</tr>
<tr>
<td>Tayside</td>
<td>131</td>
<td>122</td>
<td>130</td>
<td>138</td>
<td>134</td>
<td>140</td>
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</table>
3. Knives can be lethal weapons and to carry them for ‘protection’ or as a status symbol is not something which we can tolerate. A knife is not defensive, it is an offensive and indeed a lethal weapon. And carrying a knife can often be the first step towards becoming a criminal; the first step towards taking a life; the first step towards tearing apart the very fabric of our communities.

4. There are already strict laws concerning the carrying of knives in public. What we now need to consider are ways to restrict knives getting into the hands of the wrong people in the first place.

5. Similarly, while many might think that swords are part of a by-gone age, their threat remains very real in Scotland today. Advice from the police suggests that the concealability, portability and availability of samurai swords in particular, make them the weapon of choice for growing numbers of young men with criminal intentions. That view is supported by the increasing number of well reported court cases involving samurai and ornamental swords.

6. Swords can be lethal weapons. They are designed for combat and as such, there are strong arguments that they should be subject to specific measures of control. This consultation paper sets out a range of possible options to achieve this.
Existing Law: What’s already being done to reduce knife crime?

7. There are already a number of laws in place to restrict the sale and use of knives in Scotland. An attack with a weapon has always been considered a particularly serious assault under Scots law. Over the past 50 years, our laws have been continually strengthened and updated, to provide a range of powers and a range of penalties – including fines and imprisonment – for tackling and preventing knife crime (see Annex A).

<table>
<thead>
<tr>
<th>Existing criminal offence</th>
<th>Maximum penalty</th>
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<tbody>
<tr>
<td>Manufacturing, selling, hiring or lending a flick-knife or gravity knife</td>
<td>• 6 months in prison and/or a £2500 fine</td>
</tr>
<tr>
<td>Manufacturing, importing, selling, hiring, lending or giving a range of offensive weapons,</td>
<td>• 6 months in prison and/or a £5000 fine</td>
</tr>
<tr>
<td>including sword stick, push daggers, death stars and butterfly knives</td>
<td></td>
</tr>
<tr>
<td>Selling a knife to someone under the age of 16*</td>
<td>• 6 months in prison and/or a £5000 fine</td>
</tr>
<tr>
<td>Marketing a knife in a way which suggests it is suitable for combat</td>
<td>• 2 years in prison and/or a fine</td>
</tr>
<tr>
<td>Carrying a knife or similar, bladed item, in a public place</td>
<td>• 2* years in prison and/or a fine</td>
</tr>
<tr>
<td>Carrying an offensive weapon in a public place</td>
<td>• 4 years in prison and/or a fine</td>
</tr>
</tbody>
</table>

* NB It is proposed to increase the maximum penalty for possession of a knife in a public place to 4 years and increase the minimum purchase age for a non-domestic knife from 16 to 18 – see paras 13 & 16 below

Overall strategy

8. Of course, criminal sanctions alone will never be enough to eradicate knife crime totally. In addition to tightening up the laws relating to violent crime, the Scottish Executive is also taking forward work on the enforcement of those laws. We are working on this in partnership with Strathclyde Police, who have identified violent crime – and particularly knife crime – as a priority.

9. A specialist unit has been established in Strathclyde, to work with partner agencies in education, health and social work, so that a joined-up approach to reducing violent crime in Glasgow and the west of Scotland can be developed.
10. The unit is also undertaking a programme of research which aims to:

- establish why young men carry knives;
- explore triggers such as alcohol, drugs, peer pressure, gangs and territorialism;
- identify the number of violent crimes going unreported to the police; and
- examine the link between crime and deprivation.

11. We will use the findings of this research to develop further the Executive’s approach to violence. Of course, the problem of knife crime is not unique to Strathclyde. Successful new approaches to enforcement on knife crime can usefully be shared with other forces after being piloted in Strathclyde.

Next Steps: What plans are in place to tighten up the law?

12. Tightening up the law is therefore one part of the overall strategy. Despite the laws already in place to ensure that the carrying, sale and use of knives can be dealt with robustly it is a matter of concern that crimes involving knives continue at their current level. That is why the Scottish Executive has been reviewing knife crime law and its enforcement – to consider what more can be done, in particular, to limit the availability of these potentially dangerous weapons by placing restrictions on their sale.

A Partnership for a better Scotland: Partnership Agreement:

“We will continue to work for a Safer Scotland, reducing crime, particularly violent and drugs related crime, and reducing re-offending.”

“We will work to make communities safer, and people feel safer... [and] we will review the law and enforcement on knife crimes”.

http://www.scotland.gov.uk/library5/government/pfbs-00.asp

13. That review identified a number of actions which could be taken, to strengthen the laws on selling and carrying knives. In November 2004, the First Minister announced the following five point plan:

- Doubling the penalty for possession of a knife in a public place, from 2 years 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.

**Definitions: what kind of knives are we talking about?**

15. While we could seek to restrict access to all knives — no matter what their intended purpose — the vast majority of people use knives in the home responsibly and safely every day. The efforts and costs involved in restricting access to all of these knives would be disproportionate to any benefits that might be gained. We do not, therefore, propose to place further restrictions on the sale of knives with a legitimate domestic use.

16. We therefore intend that knives which are designed for domestic purposes, such the preparation and consumption of food or DIY tasks, should not be covered by the proposed increase in the minimum age at which a knife can be sold to someone or any further restrictions on sale we introduce.

17. Instead, we believe that proposals to restrict the sale of knives should focus on those knives which do not have a clear and unambiguous domestic purpose. In particular we want to catch so-called combat knives and others more suitable for slashing, stabbing and fighting than for any domestic purpose.

18. Our proposed definition of 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.”
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.

21. In addition, the definition of non-domestic knives proposed above would include swords (as could existing statutory definitions of knives). The measures this paper proposes for restricting the sale of such knives could therefore also apply to swords.

22. A working definition of a sword – and one which was used in legislation of the Parliament of Victoria, Australia, (which banned swords in 2004), is:

   “Sword’ being a thrusting, striking or cutting weapon with a long blade having 1 or 2 edges and a hilt or handle”
Consultation: What are the options?

23. This consultation paper discusses a range of actions we might take to restrict access to knives and swords.

24. The various options outlined in Section 2 of this paper, will require different levels of resources; offer different degrees of control; and produce different levels of impact. Some can be implemented relatively quickly, others will require more detailed work, and primary legislation. In exploring these options, it will be important to assess the balance between the necessary input, in terms of time and resources, and the expected benefits, in terms of reducing knife crime.
SECTION 2

Restricting sale of knives and swords: Options

License the sale of non-domestic knives

A key step toward restricting the availability of non-domestic knives is to regulate their sale. Scottish Ministers could require any retailer wishing to sell non-domestic knives to hold a licence, authorising them to do so. Retailers would apply to the relevant local authority for a licence – and could be required to meet certain conditions before their application was approved. It would then be a criminal offence for a person to sell a non-domestic knife without a licence. It would also be a criminal offence for a licence-holder to break any of the conditions of his or her licence.

25. We do not propose to create a mandatory licensing scheme for the sale of all knives. Instead, we propose to introduce a scheme for the sale of non-domestic knives. This is intended to target those knives that have no clear domestic purpose and place a spotlight on any retailers who sell knives irresponsibly.

26. Any conditions attached to licences would require to be reasonable, and proportionate to the problem being tackled. As a number of murders are committed with knives every year in Scotland, however, it is clear that this is a serious problem, and one which justifies more onerous conditions. These might include:

- requiring retailers to keep records of those to whom they sell non-domestic knifes;
- 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 a sale;
- requiring retailers to obtain a statement from (e.g.) a Justice of the Peace, Member or Parliament or professional person, confirming purchaser’s ID;
- Requiring retailers to record transactions on CCTV;
- Requiring retailers to record a description of the type of knife sold; or
- ID numbers or other means to identify their merchandise with a shop “marker”
27. Clearly, a licensing scheme using these sorts of conditions would not prevent anyone from acquiring a non-domestic knife for legitimate purposes, like fishing, hunting, some trades or farming and other rural businesses. Such purchases would remain entirely legal.

28. The conditions outlined above, however, would serve both to deter those with no such legitimate purposes from attempting to buy a knife; and to compel unscrupulous retailers either to sell non-domestic knives more responsibly, or to cease trading in these knives altogether.

29. Although a licensing scheme will necessarily place some additional demands on legitimate purchasers and retailers, we believe that this is a small price to pay for preventing non-domestic knives from getting into the wrong hands, and the resulting reduction in knife crime that would achieve.

**Logistics: how could this be done?**

30. Section 44 of the Civic Government (Scotland) Act 1982 provides Scottish Ministers with the power to establish licensing schemes for activities which are not otherwise covered by the Act.

31. We would use the power under section 44 of the Civic Government Act to create a mandatory licensing scheme for i) dealers in new, non-domestic knives and ii) dealers in second-hand, non-domestic knives, where the dealing in such knives is incidental to the dealer’s primary business. Local authorities would act as licensing authorities under this scheme.

32. There is an expectation that the costs to local authorities of operating any such licensing scheme should be recovered through charges made for licences. There would therefore be an initial or annual cost associated with the holding of a licence to sell non-domestic knives.

33. It would not be possible under section 44 for the mandatory scheme to cover any second-hand dealers dealing primarily in second-hand knives, but if any such dealers exist then they could be covered by a scheme imposed by the local authority.

**Consultation questions:**

Q1 Should a licence be needed to sell non-domestic knives?
Q2 What should be covered by a definition of a non-domestic knife?
Q3A Are the suggested conditions of license reasonable?
Q3B Should there be any additional conditions of licence?
Q4 What would be the costs for businesses of licensing the sale of knives?
Ban the purchase of non-domestic knives, other than from a licensed seller

The regulations licensing the sale of knives could be accompanied by the creation of an offence of purchasing a non-domestic knife from an unlicensed retailer. This would mean that it would be illegal to purchase a non-domestic knife from an unlicensed retailer.

34. Making it a criminal offence to buy a non-domestic knife from an unlicensed seller would reinforce the licensing scheme by placing criminal sanctions directly on purchasers.

Logistics: How could this be done?

35. Making it a criminal offence to purchase a non-domestic knife from someone other than a licensed dealer would require primary legislation. This would suggest a phased approach, with a licensing scheme being introduced in the first instance.

Consultation question:

Q5 Should it be a criminal offence to purchase a (non-domestic) knife from an unlicensed seller?
Include swords in licensing scheme for the sale of knives

The simplest and most straightforward means of regulating the sale of swords would be to extend the licensing scheme for the sale of non-domestic knives, to include swords. This would make it an offence for an unlicensed retailer to sell a sword, or for a licence-holder to break any of the conditions of licence.

Such a scheme could be strengthened by introducing primary legislation that prohibits retailers selling swords to anyone other than those who could prove they were members of approved organisations (such as martial arts associations, highland dance groups, fencing clubs or re-enactment societies).

Licensing of retailers

36. As with a licensing scheme for the sale of non-domestic knives, this option would require retailers to meet a number of conditions if they wished to sell knives and swords.

37. As conditions of licence would be likely to include the need for retailers to record the names and addresses (as verified with personal ID) of purchasers, such a scheme should act as a strong deterrent to those wishing to buy swords for illegal ends.

38. Conditions preventing retailers from displaying swords might also help to stigmatise their purchase – and monitoring retailers to ensure they were trading responsibly in swords, should discourage those who might otherwise have been less scrupulous about selling such merchandise to those without any apparent legitimate reason for purchasing.

Approved organisations

39. It would be possible to introduce legislation that could require retailers to sell swords only to those who could prove they were members of, for example, approved sporting, cultural or dramatic organisations. The legislation would have to make provision for the way in which such organisations are to be approved, for example by local authorities and/or the police.

40. The intention behind this approach is that it will place some responsibility on those organisations that want to use swords; to show both that they have a legitimate reason for so doing and that they exercise suitable controls over the use to which such swords were put.

41. The practical enforcement of a licensing scheme with this additional condition would involve a number of different groups:
• **Organisations**: In order to be approved, organisations would need to accept some responsibility for their members.

• **Local authorities**: In their role as the licensing bodies, local authorities would have to approve organisations upon application.

• **Police**: The police would be responsible for enforcing the new law and advising on local authority licensing decisions.

• **Retailers**: Retailers would be responsible for ensuring that purchasers were current members of one of the approved organisations.

**Logistics: How could this be done?**

42. As before, a licensing scheme could be established under section 44 of the Civic Government (Scotland) Act 1982. This could cover the same breadth of retailers, and apply the same range of conditions as outlined for the licensing scheme for (non-domestic) knives.

43. To require retailers to sell swords only to members of approved organisations would require primary legislation. It may be that a phased approach is preferable, whereby a licensing scheme for the sale of non-domestic knives is established initially, and consideration is given to introducing primary legislation in the longer-term.

**Consultation questions:**

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?
Ban the sale of swords

The sale of all swords – or of certain types of swords – could be banned. There could be exemptions from such a general ban for particular interest groups which had legitimate reasons for requiring swords.

44. It would be relatively straightforward to ban the sale of all swords. We are aware, however, that many groups in Scotland have legitimate reasons for owning, manufacturing, selling and using swords.

45. Since the First Minister’s announcement in November, we have received representations from a wide variety of interest groups, outlining their particular case for purchasing and using swords. In response to those groups, we have made clear that this consultation would consider the need to build exceptions into any legislation strengthening the law on the sale of swords.

46. The Scottish Executive has no wish unnecessarily to restrict or adversely impact on cultural, sporting or dramatic activities. We value the many traditions and pursuits that contribute towards our country’s heritage and diversity. We recognise, too, the significant contribution many such activities make to the tourist industry.

47. Groups representing the following activities have been in contact with the Scottish Executive, to discuss their use of swords:

- **Re-enactment** – re-enactment societies do much to bring significant aspects of Scotland’s history to life, by re-enacting battles, with quality reproduction weapons.

- **Martial arts** – swords are used in many martial arts, which revolve around strict codes of discipline and control.

- **Sword manufacture** – swordsmiths in Scotland manufacture swords, in some cases to extremely high specifications, involving traditional techniques and attracting international interest and renown.

- **Historical and sport fencing** – fencing swords are used in organised events across the UK and internationally.

- **Scottish Highland dancing** – the traditional Scottish sword dance, when authentically performed, inevitably involves swords.

- **Film and theatre** – swords are frequently used as props in period dramas.

- **Religion** – the sword is of particular religious symbolism to Sikhs.
• **Collecting** – the preservation of the past by many individual collectors in this country is often to the benefit of our museums and national heritage bodies.

48. Where possible, we would like to exempt these groups from legislation restricting the sale of swords, so that those undertaking legitimate cultural, sporting or dramatic activities involving swords will not be liable to prosecution.

**Logistics: How could this be done?**

49. Section 141 of the Criminal Justice Act 1988 provides Scottish Ministers with the power to add types of weapons to the list of weapons outlawed in the Criminal Justice Act 1988 (Offensive Weapons) Order 1988 (the Offensive Weapons Order). It would therefore be possible to add all swords to the Offensive Weapons Order, thereby banning their manufacture, sale, hire or loan.

50. There are already three statutory defences to a charge under made 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 specified 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.

51. That legislation also exempts antique weapons (defined as those which were manufactured more than 100 years before the date of any alleged offence).

52. It is clear, however, that the defences and exemptions currently available under the 1988 Act would not cover the full range of interest groups with a legitimate case for continuing to deal in, and use swords, as outlined above.

53. Extending beyond those existing statutory defences, to establish additional defences/exemptions for groups we believe have legitimate grounds for buying and selling swords, would be outwith the scope of an Offensive Weapons Order and would require primary legislation.
54. 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.

<table>
<thead>
<tr>
<th>Consultation Questions</th>
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<tbody>
<tr>
<td><strong>Q8</strong> Should the sale of swords be banned?</td>
</tr>
<tr>
<td><strong>Q9</strong> 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)?</td>
</tr>
</tbody>
</table>
Ban the sale of samurai swords

Scottish Ministers could make it illegal to sell specifically samurai swords in Scotland. Again, this would make it a criminal offence to sell, rather than to buy or own, such a sword.

55. When there is evidence of the carrying and use of swords, the vast majority are samurai swords. By banning the sale of samurai swords, rather than all swords, we would be focusing down on those swords which appear to be the greatest problem in parts of Scotland. In order to do this, we would need to define a samurai sword as distinct from the general definition of swords proposed in Section 1.

56. On the other hand, samurai swords are legitimately used by many martial arts exponents who exercise the highest degree of discipline and control. In addition, the swords involved in crime are likely to be only cheap replicas of genuine samurai swords.

57. If therefore, steps were taken to ban the sale of samurai swords, it might be appropriate to build in exceptions to the ban, so that those with specific reasons, could continue to purchase them. If possible, it might also be desirable to differentiate between authentic swords, and replicas.

58. The Japanese katana is the sword most commonly referred to as a samurai sword. A katana can be defined as:

“A specific type of curved, single-edged sword traditionally used by the Japanese Samurai as a cutting weapon against lightly-armoured opponents, kept in a sheath, and forged with the highly specialized tamagahane steel”

59. However, we would also want to cover replicas of any such swords together with swords of a similar design, albeit made from inferior materials.
Logistics: How could this be done?

60. As with banning the sale of all swords, specifically samurai swords could be added to the Offensive Weapons Order, provided that a suitable definition could be agreed. The provision of exemptions from that ban would, however, require primary legislation.

Consultation questions:

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?
License the purchasers of swords

A system similar to existing firearms legislation could be introduced which would require anyone wishing to buy a sword to obtain a personal, individual licence. This would make it a criminal offence for an unlicensed person to purchase a sword in Scotland.

61. This approach would effectively place swords on a par with firearms, as weapons which could be bought by an identified and controlled number of people, who have proven they have a legitimate reason for such a purchase. Conditions of licence might include:

- Evidence that the applicant had no criminal record
- Corroborated statement of the reason for owning a sword
- Submission of up-to-date contact details to the licensing authority
- The payment of an administrative charge

62. Correspondence from some groups who use swords has indicated that at least some would be willing to accept an individual licensing process, in recognition of the potential dangers of swords in the wrong hands. Licensing of this sort would enable these groups to continue to practise their particular, sword-based activities legally.

63. Unless specific exemptions were included in such a system, however, it could impact adversely on the tourist industry, effectively by banning (unlicensed) visitors to our country from purchasing, often highly valuable, swords as souvenirs. We may wish to consider the feasibility of exempting those wishing to purchase swords for export from Scotland – as verified by the necessary documentation.

64. A system of individual licences for sword ownership is likely to be expensive to establish and operate. If implemented, it would be likely that an initial or annual fee would be payable by licence holders.

Logistics: How could this be done?

65. This would involve extensive primary legislation and, if thought to have merit, would require further consultation on the detail.

Consultation question:

Q13 Is there a case for individual licenses for the purchase of swords
## Summary of options

<table>
<thead>
<tr>
<th>Option</th>
<th>Logistics</th>
</tr>
</thead>
<tbody>
<tr>
<td>License the sale of non-domestic knives</td>
<td>A licensing system could be introduced in the relatively short-term, under the Civic Government Act 1982.</td>
</tr>
<tr>
<td>Ban the purchase of non-domestic knives other than from a licensed seller</td>
<td>This would require primary legislation.</td>
</tr>
<tr>
<td>License the sale of swords (with or without additional &quot;organisational membership&quot; condition)</td>
<td>In order to require retailers to sell swords only to members of approved organisations, we would need primary legislation.</td>
</tr>
<tr>
<td>Ban the sale of swords (with or without exemptions)</td>
<td>Swords could be added to the Offensive Weapons Order, thereby banning their sale, manufacture, hire or loan. Exempting particular interest groups with legitimate reasons for using swords would, however, require primary legislation.</td>
</tr>
<tr>
<td>Ban the sale of samurai swords (with or without exemptions)</td>
<td>If a suitable definition could be identified, samurai swords could be added to the Offensive Weapons Order, thereby banning their sale, manufacture, hire or loan. Again, exempting those with legitimate cases would require primary legislation.</td>
</tr>
<tr>
<td>License the individual purchase of swords (with or without exemptions)</td>
<td>This would require primary legislation.</td>
</tr>
</tbody>
</table>

66. Regulating the sale of non-domestic knives and swords through a licensing scheme might be enough to discourage people from buying these weapons for the wrong reasons - and indeed to ensure that retailers themselves were responsible in their trading.

67. If, however, an evaluation of any licensing scheme showed that swords were continuing to get into the wrong hands, we might wish to consider some of the more far-reaching solutions, such as banning the sale of certain types of sword or licensing purchasers.
Consultation Arrangements and Access to Responses

68. We are inviting written responses to this consultation paper by 30 September 2005. We would be grateful if you could clearly indicate in your response which questions or parts of the consultation paper you are responding to as this will aid our analysis of the responses received. Please remember to complete and return the Respondee Information Form attached at Annex C along with your response.

Please send your response to:

knifecrimeconsultation@scotland.gsi.gov.uk

or

Knife Crime Consultation
Criminal Law
Scottish Executive Justice Department
Area 1W
St Andrew’s House
Edinburgh
EH1 3DG

69. This consultation, and all other SE consultation exercises, can be viewed online at

http://www.scotland.gov.uk/consultations

You can telephone Freephone 0800 77 1234 to find out where your nearest public internet access point is.

70. We will make all responses available to the public in the Scottish Executive Library unless confidentiality is requested. All responses not marked confidential will be checked for any potentially defamatory material before being logged in the library or placed on the website.
Annex A - Knife Crime Law & Legislation

1. Scots law has always regarded an attack with an offensive weapon as a serious aggravation of the common law crime of assault. Successive legislation has also introduced tighter and more specific controls to tackle the carrying and sale of knives and target the prevention of crime. A wide range of powers is now in force and there are a range of penalties available to the court, including fines and imprisonment. These powers and penalties are set out in a number of pieces of legislation, as set out below.

2. The Restriction of Offensive Weapons Act 1959 prohibits the manufacture, sale or hire, the exposure or possession for the purposes of sale or hire, or the lending or giving to another person, of a flick-knife or gravity knife. The maximum penalty on summary conviction is imprisonment for a term not exceeding 6 months or a fine not exceeding level 4 (£2500) or both.

3. The Criminal Justice Act 1988 makes it an offence to manufacture, import, sell or hire, expose or possess for the purposes of sale or hire, or lend or give to another person any specified offensive weapon. Fifteen weapons have been specified as offensive weapons in Offensive Weapons Orders under this Act; including sword sticks, push daggers, death stars and butterfly knives. The maximum penalty on summary conviction is 6 months imprisonment and a fine not exceeding level 5 (£5000) or both.

4. The Criminal Law (Consolidation) (Scotland) Act 1995 prohibits the carrying of offensive weapons in public places without lawful authority or reasonable excuse. The maximum penalty on summary conviction is imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (£5000) or both. The maximum penalty on conviction on indictment is imprisonment for a term not exceeding 4 years, or a fine or both.

5. The Criminal Law (Consolidation) (Scotland) Act 1995 also prohibits the carrying of knives and other articles with blades or points in public places. The maximum penalty on summary conviction is imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (£5000) or both. The maximum penalty on conviction on indictment is imprisonment for a term not exceeding 2 years, or a fine or both.

   NB: The proposals announced for the Police Bill would increase the maximum penalty to four years.

6. The Offensive Weapons Act 1996 amended the Criminal Justice Act 1988 to prohibit the sale of knives to someone under 16 (and also any blade, razor blade, axe, any bladed or sharply pointed article or any item made or adapted for causing personal injury). The maximum
penalty on summary conviction is imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 (£5000) or both. 

NB: The proposals announced for the Police Bill would increase the minimum age from 16 to 18 for non-domestic knives.

7. The **Knives Act 1997** makes it an offence to **market a knife in a way which indicates that it is suitable for combat**. The maximum penalty on summary conviction is imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (£5000) or both. The maximum penalty on conviction on indictment is imprisonment for a term not exceeding 2 years, or a fine or both.
Annex B – The Scottish Executive Consultation Process

Consultation is an essential and important aspect of Scottish Executive working methods. Given the wide-ranging areas of work of the Scottish Executive, there are many varied types of consultation. However, in general Scottish Executive consultation exercises aim to provide opportunities for all those who wish to express their opinions on a proposed area of work to do so in ways which will inform and enhance that work.

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body. Consultation exercises may involve seeking views in a number of different ways, such as public meetings, focus groups or questionnaire exercises.

Typically, Scottish Executive consultations involve a written paper inviting answers to specific questions or more general views about the material presented. Written papers are distributed to organisations and individuals with an interest in the area of consultation, and they are also placed on the Scottish Executive web site enabling a wider audience to access the paper and submit their responses. Copies of all the responses received to consultation exercises (except those where the individual or organisation requested confidentiality) are placed in the Scottish Executive library at Saughton House, Edinburgh (K Spur, Saughton House, Broomhouse Drive, Edinburgh, EH11 3XD, telephone 0131 244 4552).

The views and suggestions detailed in consultation responses are analysed and used as part of the decision making process. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review;
- inform the development of a particular policy;
- help decisions to be made between alternative policy proposals;
- be used to finalise legislation before it is implemented.

If you have any comment about how this consultation exercise has been conducted, please send them to the name and address given in the summary section above. The Scottish Executive now has an email alert system for SE consultations (SEconsult). This system allows stakeholder individuals and organisations to register and receive a weekly email containing details of all new SE consultations (including web links). SEconsult complements, but in no way replaces SE distribution lists, and is designed to allow stakeholders to keep up to date with all SE consultations activity, and therefore be alerted at the earliest opportunity to those of most interest. We would encourage you to register.

1 http://www.scotland.gov.uk/consultations
Annex C – Respondee Information Form

Please complete the details below and attach it with your response. This will help ensure we handle your response appropriately:

Name: ……………………………………………………………………………………………………….

Postal Address: …………………………………………………………………………………………….

Consultation title: TACKLING KNIFE CRIME – A CONSULTATION

1. Are you responding as:
   (a) an individual (go to 2a/b)  □
   (b) on behalf of a group or organisation (go to 2c) □

2a. Individuals:

Do you agree to your response being made available to the public (in SE library and/or on SE website)?

   Yes (go to 2b below)   □
   No, not at all   □

2b. Where confidentiality is not requested, we will make your response available to the public on the following basis (please specify)

   Yes, make my response, name and address all available   □
   Yes, make my response available, but not my name or address   □
   Yes, make my response and name available, but not my address   □

2c On behalf of groups or organisations:

Your name and address as respondees will be made available to the public (in the SE library and/or on SE website). Are you content for your response to be made available also?

   Yes □
   No □

3. Sharing responses/future engagement

We will share your response internally with other SE policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for the Scottish Executive to contact you again in the future in relation to this consultation response?

   Yes □
   No □