

EAST AYRSHIRE COUNCIL

SPECIAL LOCAL GOVERNMENT LICENSING PANEL

13th November 2008

**REPORT ON THE SCOTTISH GOVERNMENT'S PROPOSALS FOR THE
CREATION OF A SYSTEM OF KNIFE DEALER LICENSING**

Report by Executive Director of Corporate Support

1. PURPOSE OF REPORT

- 1.1 To apprise the Licensing Panel of the details of the Scottish Government's proposals for the creation of a system of knife dealer licensing.

2. BACKGROUND

- 2.1 In 2005 the Scottish executive issued the consultation document, "Tackling Knife Crime". This consultation included proposals for a new regime requiring licensing of knife dealers. The responses to that consultation have now resulted in the preparation of a number of draft orders to operate the licensing system and on which a further consultation exercise was carried out between 30 July and 22 October 2008.
- 2.2 It should be noted in the first instance that the regime is being introduced for those dealing in non-domestic knives. In addition, it is proposed that certain articles are to be exempt from the requirements of the scheme. These items are folding pocket knives, kirpans and skean dubhs but only where the article's blade does not exceed 8.91 centimetres (3.5 inches) in length. Dealers who wish to sell larger versions of these types of article will however require a licence.
- 2.3 The consultation requested comments on the various draft regulations which covered numerous issues ranging from the proposed timescale for the introduction of the new system to examples of suggested mandatory and discretionary conditions which individual local authorities will be able to attach to a licence.
- 2.4 In totality, the proposed regulations are fairly comprehensive and are generally similar in nature with analogous licensing requirements in terms of for example the Gambling Act 2005 and the Licensing (Scotland) Act 2005. There are however a number of issues which should be raised from an information perspective for the benefit of the panel.

3. SPECIFIC ASPECTS OF THE PROPOSALS

- 3.1 The proposed timescale for the introduction of the licensing system has been suggested as 1 March 2009 as the date when applications can first be submitted for a licence. This period will end on 1 June 2009. The regime would then come fully into force on 1 September 2009 by which date all dealers effected by the legislation must hold a licence. Initial assessment would indicate that such a timescale will not result in any particular or specific issues for East Ayrshire Council. The position may however be potentially more difficult in some other areas as the new liquor licensing regime also comes fully into force on the same date.
- 3.2 In addition to the articles which are to be outwith the scope of the regime it is also intended that certain activities will be exempt. These will be where a person (A) is teaching or training another person (B) the sport of fencing – to include the hiring, lending or giving of fencing weapons by A to B subject to the proviso that A is a professional who is qualified to teach or train B in the sport.
- 3.3 As referred to in paragraph 1.3 above the proposals identify mandatory conditions which will require to be attached to all licenses requiring dealers to make and retain for a period of at least 12 months written detailed records on the following:-
- The identity of the customer and the means by which the customer's identity was verified;
 - Proof that the customer was at least eighteen years of age at the time of the transaction and the means by which the customer's age was verified; and
 - A full description of the article sold, hired, offered or exposed for sale or hire, lent or given to the customer.

An additional mandatory condition will be that the dealer must ensure that any article or display of articles is not visible from the street or any public entrance to the premises. These provisions will be supplemented where the article sold, hired borrowed or otherwise acquired is a sword.

- 3.4 Mandatory conditions are to be potentially supplemented by additional local authority requirements which would only apply to an area of an individual licence. Given the proposed wide ranging nature of any such conditions a number of examples of the type of condition which may be considered are provided. They are:-
- Provisions regarding the security or display of articles within premises;
 - Provisions regarding the packaging of swords and non-domestic knives sold by mail or otherwise.

- 3.5 In common with the majority of other types of Civic Government Licensing matters, it is proposed that Licensing Authorities will be able to set their own fees.

4. NEXT STEPS

- 4.1 As indicated above the consultation on the draft legislation ended on 22 October 2008. After assessment it was concluded that the Council did not have any specific or major contributions to make on the proposals. On that basis East Ayrshire Council did not submit a formal response to the consultation. It is thereafter intended that regulations will be laid before parliament and brought into force later this year.
- 4.2 After the legislation has been enacted it is intended that matters will be referred to the Licensing Panel with proposals in respect of fees and procedures in respect of the applications. In the meantime members of the Licensing Panel are asked to note the current position in relation to the proposed new regime for the licensing of knife dealers.

5. RECOMMENDATION

- 5.1 The Licensing Panel is requested to note the contents of this report and specifically that, subject to the finalisation of the various statutory instruments, that further detailed proposals in respect of fees and procedures for the licensing of knife dealers will be brought before the Panel for consideration in due course.

Elizabeth Morton
Depute Chief Executive/Executive Director of Corporate Support

29 October 2008

LIST OF BACKGROUND PAPERS

1. The Scottish Government – Licensing of Knife Dealers – A Consultation

Any person wishing to inspect any of the background papers listed above should telephone 01563 576061 and ask for Mr David Mitchell, Head of legal, Procurement and Regulatory Services or e-mail on david.mitchell@east-ayrshire.gov.uk

Implementation Officer; Stuart McCall, Legal and Procurement Services Manager.