

## **Consultation on new knife legislation proposals to tackle the use of machetes and other bladed articles in crime**

### **Questionnaire**

**Q1. Do you agree that the government should take further action to tackle knife crime, and in particular the use of machetes and other large knives in crime?**

**Yes**

No

Please give reasons. (max. 250 words)

We are fully supportive of government action to tackle knife crime, but any changes to the law must not restrict or prohibit machetes and knives, or other bladed implements used legitimately by those engaged in farming, land management, wildlife management and shooting, or by gardeners, thatchers, chefs and butchers for whom they are essential to carry out their work. However, we are concerned that in trying to define what is to be banned the Government could inadvertently prohibit legitimately held tools, both knives and machetes. A machete can be described as “broad and heavy knife or cutlass used, especially in Central America and the West Indies, both as a tool and a weapon.” (OED), or as “a broad blade used either as an agricultural implement similar to an axe, or in combat like a long-bladed knife. The blade is typically 30 to 45 centimetres (12 to 18 in) long and usually under 3 millimetres ( $\frac{1}{8}$  in) thick” (Wikipedia). A machete is therefore defined both in relation to its physical description and to its usage. It would therefore be dangerous to ban a ‘machete’ merely in terms of its description. For, example, a Victorinox steak knife used for butchering is a broad bladed knife with a blade 12 inches long, under 3mm thick and with a curved end. It therefore has the characteristics of a machete, but its usage is different. If used for its correct purpose, namely butchery, then it is a knife. Were it to be used in agriculture, horticulture, or land management, or as a weapon, then is does it become a machete? We understand that the proposed definition of in scope items would not cover this item as it has not more than one hole and does not have any serrated edge. However, it remains a bladed item, which under the proposed new police powers could be seized. It is important that physical description is understood to be only part of the definition and that intended use is also considered i.e. the context in which the knife or machete is held and the purpose for which it is intended. It is not the item itself which causes injury, alarm etc, it is the person using it and the use to which it is put. Thus, the focus (as with firearms) should be upon the individual and upon their motive and intent, rather than on the object itself.

**Proposal 1 - Banning certain types of knives and machetes which we suggest have no practical use and seem to be designed to look menacing and suitable for combat**

**Q2. Do you agree with the proposal?**

Yes

No

Please give reasons. (max. 250 words)

We are supportive of a prohibition of knives and machetes that serve no practical purpose. However, in banning these items the Government must ensure that it does not render unlawful

those tools used by land managers, keepers etc. The consultation describes 'in-scope blades' as being:

*“fixed sharp pointed blades, with blades at least 8” long, which feature at least two of the following features:*

- *Plain cutting edge*
- *Serrated cutting edge*
- *More than one hole in the blade”*

There may be knives and machetes which are used for legitimate purposes that could be caught by the definition above, such as machete with both a smooth and serrated cutting edges being longer than eight inches used for the clearing of vegetation. There is nothing wrong per se in a knife that contains the features above in whatever combination, what matters is the purpose for which the knife is used, or its intended use.

The question refers to types of knives and machetes “which we suggest have no practical use” and “seem designed to look menacing and suitable for combat”. Many knives and machetes that are used for perfectly legitimate activities could seem designed to look menacing etc, depending on who is making that judgement. It will be necessary to ensure that knives and machetes that do have a practical purpose are not banned because they might be seen as “menacing”. It might also be argued that many knives and machete type implements that are used in legitimate activities are at least in principle “suitable for combat” were someone to use them as a combat weapon. Once again, the issue is what the knife is being used for, as opposed to the knife itself.

We welcome the recognition in the consultation that large bladed tools have traditionally been used in farming, gardening etc. However, these tools are not some hangover from the past but are still used and needed. Knives have traditionally been used as tools in butchery but no one would question the need for butchers to use knives, so we wonder why the consultation appears to question the use of knives and machetes in connection with other activities as set out in the consultation document. Before adding any further description to the list of prohibited articles the Government must be sure that they have not prohibited knives and machetes that are the tools of trade for many people.

For the avoidance of doubt and to protect the interests of those who need to use knives and machetes, there should be a defence of having good reason to have acquired, possess etc. A person should be able to show a need to use what would otherwise be prohibited, where in connection with a lawful activity such as land management (farming, horticulture), wildlife management (including shooting, gamekeeping). There are powers under Section 141 of the Criminal Justice Act 1988, allowing further defences to be added and if the Government is serious about not wishing to ban the legitimate use of knives and machetes then including a defence would ensure this. That, coupled with a clear definition of the knives and machetes to be added to the prohibited list, would ensure the continuance of legitimate use, while crime is tackled.

**Q3. Looking at the common features present in the knives and machetes we are proposing to ban, do you agree that any legal description should refer to:**

**a) The article containing both smooth and serrated cutting edges**

Yes

No

Please give reasons. (max. 250 words)

We understand that the approach is to ban knives and machetes based on whether or not they have a particular combination of characteristics and that by adopting this approach to avoid banning the sorts of knives and machetes used by farmers, hedge layers, gamekeepers etc.

However, there are knives that are used for perfectly legitimate activities that may have both a smooth and serrated edge, such as bushcraft knives, machetes used for clearing undergrowth and some will also be over 8 inches in length. These would be caught by the current proposals given how the consultation defines 'in-scope blades'. The simple fact of a knife having both smooth and serrated edges should not mean that it is prohibited. We are not sure that the reference to serrated and smooth bladed is terribly helpful but also appreciate the difficulty in defining the knives and machetes to be prohibited and that blade type, or combination of types, couple with other features is useful. If the description is coupled with a suitable defence then a person owning such a knife or machete with good reason should be able to continue to use it for legitimate activity.

**b) The article containing more than one hole**

Yes

No

Please give reasons. (max. 250 words)

There seems to be a false assumption that holes in blades are indicative that they are somehow designed to be menacing or used for violent purposes. Holes can reduce friction making cutting easier and also lighten the blade.

However, in the context of agriculture, gardening and hunting etc a knife with more than one hole would be unusual. Most knives or machetes used would have no holes. There is some merit in the feature of multiple holes when combined with other characteristics being used to define the knives and machetes the Government seek to ban.

**c) The article being of a certain length**

Yes

No

Please give reasons. (max. 250 words)

The question is not what the bladed item looks like, or how long it is but whether it serves a legitimate purpose and is possessed for a good reason, including historic items and collections.

We understand that there are exemptions for historic items and for other purposes. To ban items on length alone could impact on some knives and machetes used for legitimate activities. The consultation suggests the ban extend to blades of a minimum of 8 inches but

where length must be accompanied by other features in order for the knife or machete to be classified as banned. We would not support prohibition on length alone but if combined with other characteristics then the legal definition would be clearer.

**d) Are there any other features that should be included in the legal description?**

Please give reasons. (max. 250 words)

No comment.

**Q4. Looking at the length of the types of knives and machetes we are proposing to ban, we invite views on whether the minimum length should be:**

- a) 8" (20.32cm)
- b) 9" (22.86cm)
- c) 10" (25.4 cm)
- d) Any other length?

Please give reasons. (max. 250 words)

As above we think that in defining the knives and machetes to be banned the approach of combining several characteristics, including length, seems the only practical approach. Not banning these bladed items on the basis of length alone means that longer knives and machetes needed and used for legitimate purposes will continue to be available. This combined with a defence for knives or machetes that may otherwise fall within the prohibited definition but are possessed with good reason for use in legitimate activities, could avoid the proposed ban extending to items that the Government does not wish to restrict.

**Q5. We would like to understand whether and to what extent machetes and large outdoor knives may be needed currently in the UK.**

Please give reasons. (max. 250 words)

The reference to large outdoor knives is confusing. A wide variety of knives may be deployed inside and outside. It would perhaps be better to categorise knives and machetes by purpose. Knives and machetes are widely used in connection with land management practices such as clearing or thinning vegetation and hedgelaying. They are also used in practices such as thatching. Knives are also used by keepers and in deer stalking for gralloching and for butchery whether this takes place inside or in the open. There are also knives used in bushcraft. All these uses are acknowledged in the consultation, but there is an impression given that the use of these bladed items being traditional are somehow obsolete or of decreasing importance. On the contrary, these knives and machetes remain vital and indispensable tools for farmers, gardeners, keepers etc. and are widely used.

**Proposal 2 – Power to seize and retain/destroy certain bladed articles held in private if the police are in private property lawfully and they have a reasonable belief that they could be used in serious crime**

**Q6. Do you agree that the proposed new power is necessary and proportionate?**

Yes

No

Please give reasons. (max. 250 words)

The consultation sets out several scenarios/case studies which illustrate the current problems police may encounter and we can see why it is proposed to amend the law accordingly. However, we remain concerned by the possible misuse of these new powers. What amounts to “reasonable belief” and does any seizure of bladed articles have to be connected to the crime, or type of crime, for which the police have lawfully accessed private property? We are also concerned that in a household context the police could potentially remove items belonging to someone who is not involved in serious crime or suspected of being so. We can see the benefit of this additional power for the police but believe that it must be used sensibly and that there should be guidance for the police to ensure the power is used responsibly and proportionately and does not end up penalising innocent third parties.

**Q7. We invite views in relation to whether the powers should apply to any knife in private property or only to knives of a certain length.**

a) Any knife held in private property

b) Knives of a certain length

Please give reasons. (max. 250 words)

If police have “reasonable belief” that a knife or knives could be used in “serious crime” then the police should be able to remove them regardless of length. In practical terms the police are going to have to judge on a case by case basis. All households have kitchen knives and many people will use knives as part of professional or recreational activity. There will normally be more than one person in a household and it is important that innocent third parties are not penalised by losing knives etc, that they may need. The key will be the way in which the police use any new power, and perhaps guidance would be of greater assistance than defining the scope of the power based on the length of blade.

**Q8. We invite views from respondents as to whether there should be a right of appeal to the courts in order to recover an item seized or if the avenue of redress should be only through the police complaints process.**

Please give reasons. (max. 250 words)

It is important when removing a person’s property, especially when the articles may be necessary tools of a trade or profession or items that are part of a collection, including historic items, that people have a right to appeal beyond the police themselves. There may also be circumstances when knives/bladed items are removed from a property that do not belong to the person whom the police reasonably believe may use them in serious crime.

**Proposal 3: Increase the maximum penalty for the offences of sale, etc of prohibited and dangerous weapons and sale of knives to persons under 18 to 2 years**

**Q9. Do you think that the offences of selling knives to persons under 18 and selling prohibited offensive weapons are of such severity that they should have a maximum penalty of 2 years?**

Yes

No

Please give reasons. (max. 250 words)

It seems both desirable and logical to ensure consistency of penalties in this area. However, we are concerned that there may be those under 18 who may require knives and machetes in the course of legitimate training, employment or recreation, such as a 16/17 year old trainee keeper or stalker.

**Proposal 4: Should the Criminal Justice System treat possession in public of prohibited knives and offensive weapons more seriously?**

**Q10. Should the Criminal Justice System treat those who carry prohibited knives and offensive weapons in public more seriously?**

Yes

No

Please give reasons. (max. 250 words)

This seems logical and desirable. Much will depend on whether there are suitable defences in place where knives and machetes are being carried/transported for good reason.

**Proposal 5: A new possession offence of bladed articles with the intention to endanger life or to cause fear of violence**

**Q11. Do you agree with the proposal?**

Yes

No

Please give reasons. (max. 250 words)

This seems a reasonable proposal and, as noted in the consultation, mirrors a similar offence in relation to firearms.