



Carrying an Offensive Weapon (Including Knives) Policy

Status:	STATUTORY
Responsible Person:	Headteacher
Responsible Governor:	Full Governing Body
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INTRODUCTION

Evidence shows that, a substantial number of crimes are committed where a person aged 17 and under is known to have been in possession of an offensive weapon. Although most of these offences have been committed outside of School, it would be reasonable to assume that those persons were in possession of the offensive weapons during School hours and, therefore, the potential for violent incidents is very real.

Due to the vulnerability of the pupils at Willow Bank the Headteacher and Governors have recommended that School should:

- Have suitable policies and procedures in place for managing possession of offensive weapons.
- Report all such incidents to the Safer Schools Police Officers. To ensure Safer Schools Officers (PC W Kindness or PC J Lawson) has explained relevant points of law
- Take appropriate action and sanctions to ensure the rest of the school and community understand the severity of the incident.
- Have regular presentations delivered by Merseyside police on the dangers of possessing and handling weapons in and outside of school.

LEGISLATION

It is an offence under section 139A of the Criminal Justice Act 1988 (as inserted by section 4 of the Offensive Weapons Act 1996) to carry an offensive weapon or knife on School premises. It is amended under the Violent Crime Reduction Act 2006 to prohibit the sale of knives, axes and certain blades to people under the age of 18. It is also an offence to carry an offensive weapon or knife in a public place unless a person has a good reason or lawful authority for having the article with him/her. Sections 110 and 111 of the Serious Organised Crime and Police Act 2005 amend the powers of arrest available under the Police and Criminal Evidence Act (PACE) 1984 and are based on the severity of the offence. The Violent Crime Reduction Act 2006, which makes provision for members of staff to search pupils, came into force on 21st May 2007.

Part 7 of the Education and Inspections Act 2006 (which came into force on 1st April 2007), sets out the responsibilities of schools in relation to discipline and specifically deals with the powers of school staff to use reasonable force and defence where confiscation from pupils is lawful.

The DfES believes that the exercising of these powers is unlikely to infringe any of the Convention rights within (the meaning of) the Human Rights Act 1998 and that any proportionate interference would be capable of being justified for the purposes of keeping pupils and staff safe at school. A person who could prove that he/she had a good reason or authority for carrying a knife, e.g. an officer cadet, would have a general defence under the Offensive Weapons Act 1996. In addition, there are a number of special exceptions, which permit the carrying of knives:

- For use at work (e.g. knives needed in school kitchens)
- For educational purposes (e.g. tools needed for National Curriculum Technology)
- For religious reasons (e.g. a Sikh's Kirpan)
- As part of a national costume (e.g. Scottish highland dress)

DEFINITION OF AN OFFENSIVE WEAPON OR KNIFE

Offensive weapons are defined in the Prevention of Crime Act 1953, as “any article made or adapted for causing injury to the person; or intended by the person having it with him/her for such use by him/her”. Sections 139 and 139A of the Criminal Justice Act 1988 refer to any article which has a blade or point or is sharply pointed, except for a folding pocket-knife. A folding pocket-knife is one which has a cutting edge or no more than 3 inches in length and which must be readily foldable at all times. Schools are advised that, although not covered under legislation, they can impose their own ban on persons carrying folding pocket-knives.

DEFINITION OF A SCHOOL

‘School’ in this context applies to all Schools, including Pupil Referral Units and Independent Schools, providing primary or secondary education. ‘Premises’ is land used for the purposes of the School. This would include playing fields for example, but excludes any land occupied solely as a dwelling by a person employed at the School.

SEARCHING:

Headteachers and staff authorised by them have a statutory power to search pupils or their possessions, without consent, where they have reasonable grounds for suspecting that the pupil may have a prohibited item. Prohibited items are:

- Knives or weapons
- Mobile phones
- Corrosive liquids
- Alcohol
- Illegal drugs
- Stolen items
- Tobacco and cigarette papers
- Fireworks
- Pornographic images
- Any article that the member of staff reasonably suspects has been, or is likely to be, used to commit an offence, or to cause personal injury to, or damage to the property of, any person (including the pupil).

Headteachers and authorised staff can also search for any item banned by the school rules which has been identified in the rules as an item which may be searched for.

CONFISCATION

School staff can seize any prohibited item found as a result of a search. They can also seize any item, however found, which they consider harmful or detrimental to school discipline.

SCHOOLS' OBLIGATIONS UNDER THE EUROPEAN CONVENTION ON HUMAN RIGHTS (ECHR)

- Under article 8 of the European Convention on Human Rights pupils have a right to respect for their private life. In the context of these particular powers, this means that pupils have the right to expect a reasonable level of personal privacy
- The right under Article 8 is not absolute, it can be interfered with but any interference with this right by a school (or any public body) must be justified and proportionate
- The powers to search in the Education Act 1996 are compatible with Article 8. A school exercising those powers lawfully should have no difficulty in demonstrating that it has also acted in accordance with Article 8. This advice will assist schools in deciding how to exercise the searching powers in a lawful way

SCREENING

WHAT THE LAW ALLOWS:

- Schools can require pupils to undergo screening by a walk-through or hand-held metal detector (arch or wand) even if they do not suspect them of having a weapon and without the consent of the pupils. Schools' statutory power to make rules on pupil their duty as an employer to manage the safety of staff, pupils and them to impose a requirement that pupils undergo screening
- Any member of school staff can screen pupils

Also note:

- If a pupil refuses to be screened, the school may refuse to have the pupil on the premises. Health and safety legislation requires a school to be managed in a way which does not expose pupils or staff to risks to their health and safety and this would include making reasonable rules as a condition of admittance
- If a pupil fails to comply, and the school does not let the pupil in, the school has not excluded the pupil and the pupil's absence should be treated as unauthorised. The pupil should comply with the rules and attend
- This type of screening, without physical contact, is not subject to the same conditions as apply to the powers to search without consent

SEARCHING WITHOUT CONSENT

WHAT THE LAW SAYS:

Headteacher or a member of school staff and authorised by the Headteacher. The Headteacher will decide who to authorise to use these powers. There is no requirement to provide authorisation in writing.

WHAT CAN BE SEARCHED FOR?

- Knives or weapons, mobile phones, corrosive liquids, alcohol, illegal drugs and stolen items; and
- Tobacco and cigarette papers, fireworks and pornographic images; and
- Any article that the member of staff reasonably suspects has been, or is likely to be, used to commit an offence, or to cause personal injury to, or damage to property; and
- Any item banned by the school rules which has been identified in the rules as an item which may be searched for

UNDER WHAT CIRCUMSTANCES?

- You must be the same sex as the pupil being searched; and there must be a witness (also a staff member) and, if at all possible, they should be the same sex as the pupil being searched
- There is a limited exception to this rule. You can carry out a search of a pupil of the opposite sex to you and without a witness present, but only where you reasonably believe that there is a risk that serious harm will be caused to a person if you do not conduct the search immediately and where it is not reasonably practicable to summon another member of staff
- An item banned by the school rules may only be searched for under these powers if it has been identified in the school rules as an item that can be searched for
- The school rules must be determined and publicised by the headteacher in accordance with section 89 of the Education and Inspections Act 2006 in maintained schools. In the case of academy schools and alternative provision academies, the school rules must be determined in accordance with the School Behaviour (Determination and Publicising of Measures in Academies) Regulations 2012. Separate advice on school rules is available in 'Behaviour and Discipline – advice for

GUIDANCE FOR DISCOVERING A PUPIL WITH A WEAPON

- The Police should always be informed immediately of any incidents involving offensive weapons brought onto the school site
- Pupils found in position of/concealing offensive weapons will be arrested. Due to the vulnerable nature of the pupils at Willow Bank the governing body and Headteacher are taking a zero tolerance stance
- The Violent Crime Reduction Act 2006, gives Schools new powers to search pupils and seize weapons
- Schools are able to use blanket “non-contact” or minimal contact screening for weapons without needing consent or grounds of suspicion to do so. Where a member of staff has reasonable grounds to suspect, or screening arouses suspicion that a pupil is carrying a weapon, school staff will then be able to use the new powers to carry out a “hands on” search without consent
- Non-contact Screening involves pupils being checked with a metal detector wand
- A weapon confiscated should be surrendered as soon as possible and police should be informed
- The Police can enter and search a School for an offensive weapon. The Head Teacher’s permission is clearly desirable, though not a legal requirement, where, for example the situation is urgent

RISK ASSESSMENT FOR INDIVIDUAL KNOWN FOR CARRYING WEAPONS

Formal Risk Assessments are in place for individuals known to be habitual Offensive Weapons carriers (including knives) or with a known history of violence. These risk assessment undertaken on admission to the school or after an incident involving an offensive weapon inside or outside of school.

GUIDANCE FOR STAFF INVOLVEMENT WHERE A WEAPON IS SUSPECTED

- Due to the vulnerability of the pupils at Willow Bank the Police should be informed of any incident involving a weapon
- When passing information to the Police, the School should give their evaluation of the seriousness of the incident, (i.e. in progress, threat to life, or weapon secure for collection only) to help them to make their own judgement on the nature and immediacy of the response required
- There may also be some exceptional circumstances where members of staff, who have been made aware that a weapon may be on School premises, decide that they need to take action before the Police are involved. Where possible, members of staff should not confront a person suspected of possessing a weapon in the presence of other pupils. Preferably two or more members of appropriately authorised and trained staff should divert the person to a safe, secure place
- Members of staff are not under any obligation to search a person themselves. In making any decision to do so, a risk assessment approach should be adopted and it should be noted that such immediate preventive action could either prevent a potentially dangerous situation escalating or could, conversely, inflame the situation
- It is considered inappropriate for short-term, volunteer, part time teaching assistants, mealtime assistants or other support staff to be expected to search pupils. Designated and trained staff should always be called to assess and manage any situation where an offensive weapon is suspected. Where there are reasonable grounds to suspect that a pupil might have in their possession an offensive weapon, knife or blade, it might be appropriate for the Head Teacher, or an authorised and trained member of staff, to conduct a search of that pupil or his/her possessions with or without the pupil's consent. Such a search may only be carried out where the member of staff and pupil are on school premises or are elsewhere and the member of staff has lawful control or charge of the pupil
- A member of staff carrying out a search:
 1. May not require a pupil to remove any clothing other than outer clothing, i.e. any item of clothing not being worn wholly next to the skin or immediately over a garment being worn as underwear.
 2. Must be of the same sex as the pupil; and may carry out the search only in the presence of another member of staff who is also of the same sex as the pupil.
 3. A pupil's possessions (including any goods over which he/she appears to have control) may not be searched except in his/her presence and another member of staff.
 4. If in the course of a search, the member of staff finds anything he/she suspects of falling within the knives and offensive weapon category or any other thing he/she suspects is evidence in relation to an offence, they may seize and retain it.
 5. Where the person suspected of carrying a weapon is not a registered pupil at the School, or where an incident involving a pupil takes place outside the School premises and where the pupil is not under the control/charge of the school, a search should only be undertaken by a Police Officer.

POLICE SEARCHING OF PEOPLE

- While the Police have statutory powers, under the Offensive Weapons Act 2019 as amended by the Violent Crime Reduction Act, to search on suspicion that an offence has been committed, they will usually apply the test of 'reasonableness' to any decision on when and where to search a person
- It is accepted good practice for the Police to follow Code A of the Police and Criminal Evidence Act

This specifies such things as:

Where any search involves the removal of more than the outer coat, jacket, gloves and headgear, the police officer conducting the search must be of the same gender as the person being searched; and the garments mentioned above may be removed in public, although a search must be conducted out of public view.

CO-OPERATION BETWEEN POLICE AND SCHOOLS

- Primary responsibility for security rests with Schools and their governing bodies, but they should aim to involve the Police in their security arrangements
- In the case of the Community Controlled Schools, Local Authorities also have a key role in monitoring overall security policies. As well as providing their own advice to Schools, LA's often help to facilitate police/School co-operation
- Willow Bank uses SIMS to record and report all potentially violent incidents, even minor ones, and will send a copy to the LA on request

POST INCIDENT

- Consideration needs to be taken of what is needed to manage the situation immediately post-incident to ensure the safety of pupils, staff and members of the public
- All incidents should be reported and investigated in line with LA guidelines
- In the case of a serious incident, the Health & Safety Team should be contacted
- A review of the risk assessment/s and consideration of the disciplinary process for the person found carrying an offensive weapon or knife should take place
- Support for the staff/pupils involved in the incident should be available if required

LINKS TO RELEVANT LEGISLATION

Knives Act 1997 (<http://www.legislation.gov.uk/ukpga/1997/21/contents>)

Offensive Weapons Act 1996 (<http://www.legislation.gov.uk/ukpga/1996/26/contents>)

Violent Crime Reduction Act 2006 (<http://www.legislation.gov.uk/ukpga/2006/38/contents>)

Education and Inspections Act 2006 (<http://www.legislation.gov.uk/ukpga/2006/40/contents>)

The Education Act 1996 (<http://www.legislation.gov.uk/ukpga/1996/56/contents>)

Education and Inspections Act 2006 (<http://www.legislation.gov.uk/ukpga/2006/40/contents>)

ASSOCIATED RESOURCES (EXTERNAL LINKS)

Use of Reasonable Force - advice for Headteachers, staff and governing bodies Behaviour and Discipline in Schools

Behaviour and Discipline in Schools - advice for head teachers and school staff

Information Commissioner for advice on the Data Protection Act

Keeping children safe in education: statutory guidance for schools and colleges

UK Council for Child Internet Safety- UKCCIS Sexting in schools and colleges - responding to incidents and safeguarding young people

CONNECTING POLICIES FOR SAFEGUARDING PURPOSES

Willow Bank School believes it is very important that policies relating to Safeguarding issues, across the school, are read in conjunction between one another. The Policies in question have been listed below.

Safeguarding Policy

Child Protection Policy

Safer Recruitment Policy

Health & safety Policy

Drug Policy

First Aid Policy

Anti bullying & harassment Policy

Behaviour Policy

Positive Handling and Guidance Policy

Attendance Policy

E-safety Policy

Lone Worker Policy

Sexual Violence and Sexual Harassment