

Offensive Weapons Guidance for Education Providers

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Introduction

Evidence has shown that there has been an increase in occasions in Croydon where a pupil has been known to have been in possession of an offensive weapon whilst on school premises. In 2017 there has been an increase in the number of serious youth violence incidents involving knives. Whilst statistically the number of pupils in Croydon schools found to be in possession of an offensive weapon is low, the potential for violent incidents is nonetheless real. Following on from work at the Secondary Fair Access Panel Croydon Council is issuing this guidance to advise on the appropriate action for schools to take when an offensive weapon is found on school premises. Croydon Council, working in partnership with schools and the Metropolitan Police, recommends that schools should:

- Have suitable policies and procedures in place for managing possession of an offensive weapon
- Report all such incidents to the police
- Get support from Safer Schools Officers
- Work with Croydon Council's Fair Access Panel where an alternative educational placement is required
- Consider the possession of an offensive weapon as a safeguarding issue

Legislation

It is an offence under section 139A of the Criminal Justice Act 1998 to carry an offensive weapon or knife on school premises. Premises is land used for the purposes of the school. This would include playing fields. 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 them.

Section 45 of the Violent Crime Reduction Act 2006 amends the Education Act 1996 and makes provision for members of staff to search pupils.

Part 7 of the Education and Inspections Act 2006 sets out the responsibilities of schools in relation to discipline. Section 93 specifically deals with the powers of school staff to use reasonable force to maintain good order and discipline at a school, as well as preventing the commission of an offence, personal injury or damage to property. Section 94 provides a defence in any proceedings relating to the confiscation of pupils' possessions.

The DfE believes that should a school wish to implement these powers, their use would be justified to keep pupils and staff safe in school, and therefore unlikely to contravene basic rights as laid down in the Human Rights Act of 1998.

Statutory defences

A person who could prove that they had good reason or authority for carrying a knife, (for example, an officer cadet) would have a general defence under the Offensive Weapons Act 1996. In addition, there are a number of other special exceptions which permit the carrying of knives.

- For use at work (for example, knives needed in school kitchens)
- For educational purposes (for example, tools needed for Design and Technology)

- For religious reasons (for example, a Sikh's Kirpan)
- As part of a national costume (for example, 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 them for such use by them.'

There are three categories of weapons covered-

- (i) Articles **made** for causing injury to the person; (flick knives, daggers, knuckledusters, butterfly knives, sword sticks, truncheons, daggers and bayonets etc.)
- (ii) Articles that have been **adapted** for use for causing injury to the person; (sharpened screwdrivers etc.) and
- (iii) Articles that are not specifically made or adapted but which **may be considered offensive** if the person intended to use it for the purpose of causing injury to the person (hammer, cricket ball, scissors etc.)

Sections 139 and 139A of the Criminal Justice Act 1988 refer to any article that has a blade or point or is sharply pointed, except for a folding pocket knife or Swiss Army knife. Folding pocket knives or Swiss Army knives are not illegal to carry in public as long as the blade does not exceed three inches. However, if one of these knives is used in a threatening way, it will be regarded as an offensive weapon. Schools are advised that, although not covered by legislation, they can impose their own ban on pupils carrying folding pocket knives or Swiss Army knives.

Definition of a school

School in this context applies to all schools, including pupil referral units, alternative education providers and special schools located within the boundaries of the London Borough of Croydon that provide primary or secondary education.

Definition of a member of staff

A member of staff in relation to a school means:

- any teacher who works at the school; or
- any other person who, with the authority of the Headteacher, has lawful control or charge of pupils for whom education is being provided by the school.

Recommendations

Summary

- A report to the Police should be made if a pupil brings a knife, blade or other type of offensive weapon into school. If you are unsure whether the incident warrants contacting the Police, please contact the Safer Schools Team for advice.
 - School should inform the pupils' parent/carer as soon as possible after a report to the Police has been made
- An incident form should immediately be filled in by the school. This is in order to prevent any misunderstandings or misrepresentations of the incident and to assist in any complaint or post incident investigations.
- The Violent Crime Reduction Act 2006 gives schools powers to search pupils and seize weapons.
- Schools are able to use non-contact or minimal contact screening for weapons, should they find it appropriate, without needing consent or grounds of suspicion to do so. Where a member of staff has reasonable grounds to suspect that a pupil is carrying a weapon, school staff will then be able to use powers to carry out a hands on search without consent.
- Non-contact screening involves pupils walking through a beeping arch, similar to those used in airports, or being checked with a metal detector wand. It is recommended that all schools undertake searches with a metal detector wand on a regular basis
- Any confiscated weapons should be surrendered to the Police as soon as possible.
- An early help assessment should be completed, if one has not already been undertaken, on any pupil found to be in possession of an offensive weapon in school.

Suggested management actions for schools

- To undertake a regular review of the school's policy on the control and restraint of pupils
- To review and amend the school's behaviour policy accordingly.
- Establish a clear policy on the management of offensive weapons in school, including a school policy in which staff are authorised to search pupils and under what circumstances. This might also include advice on whether the police should be called to the school in all such circumstances, or if this should be left to the discretion of the Head Teacher. It should also make clear whether folding pocket knives and Swiss Army knives are to be included. It is recommended that schools do define pocket knives and Swiss Army knives as offensive weapons.
- Appropriate school sanctions (for example, whether to permanently exclude or otherwise) need to be at the discretion of the Head Teacher after a full investigation into the incident has taken place, in accordance with DfE guidance: 'Exclusion from schools and pupil referral units in England.'
- Where consideration is given to exclusion the school should refer the pupil to Croydon's Council Fair Access Panel

- Establish contact with the relevant Safer Schools Officer for discussion on preventative work around offensive weapons.
- Formal risk assessment should be undertaken for all school security issues.
- Individual risk assessments should be undertaken for individuals known to be habitual offensive weapons (including knives) carriers or with a known history of violence.

Action for schools when an offensive weapon is suspected

- Where a pupil is found in possession on school premises of any article which has a blade or is sharply pointed (including a folding pocket knife if the cutting edge of its blade exceeds 7.62cm/3 inches) school staff must immediately report this to the Police by telephoning 101. When a serious incident is in progress school staff should report to the Police by ringing 999.
- Under most other circumstances, the Police should be informed of any incident believed to involve a weapon. However, where, in the judgement of staff, the circumstances are *wholly innocent* and there is no suggestion of the use of the article as a weapon, the matter may be dealt with internally. If there is any doubt, the school must inform the Police.
- When reporting incidents to the Police, schools should give their evaluation of the seriousness of the incident (i.e. in progress, immediate threat or request for weapon collection only) to assist the police in judging the nature and immediacy of the response required. An incident form should be completed as soon as possible.
- Where there are reasonable grounds to suspect that a pupil might have in their possession an offensive weapon it may be appropriate for the Headteacher, or an authorised and trained member of staff, to conduct a search of that pupil or their possessions with or without the pupil's consent.
- If in the course of a search the member of staff finds anything they suspect may fall under the definition of an offensive weapon they may seize and retain it
- Where the person suspected of carrying a weapon is not a registered pupil at the school, or where the incident takes place outside the school premises and where the pupil is not under the charge of the school, any search should only be undertaken by a Police Officer
- Where an offensive weapon is found on school premises school staff may take possession of the object. Schools should make their own arrangements as to which members of staff may be authorised to do so. Possession of the weapon in such circumstances by a member of staff is likely to be with good reason or lawful authority, and thus not an offence under the Offensive Weapons Act 1996. However, a member of staff in possession of a weapon in such circumstances should secure it , and
 - (i) Arrange without delay to surrender it to the Police

- (ii) Where satisfied that it is reasonable to do so, arrange for it to be taken away by the parent or guardian of the person from whom it was taken. However, some weapons are by their very nature offensive and should under no circumstances be returned
- (iii) Where weapons are returned or surrendered to the Police an incident form should be completed and a copy provided to the Police

Police action when an offensive weapon is reported by a school

- When, following a report by school staff, a judgement is made that a serious incident is in progress, the Response team will attend the school with immediate effect
- Where a report indicates that no immediate threat is imminent a Neighbourhood or Safer Schools Officer will attend the school as soon as possible. In cases where a pupil is reported to be in possession of a knife the Response team will attend the school. In some cases a pupil reported to the Police to be in possession of a knife in school will be arrested
- If it proves necessary to arrest a pupil on School premises the Police Officer should, in the first instance, speak to the Head Teacher (or their nominated Deputy) who has the authority to facilitate arrest away from the classroom with the minimum of disruption. If circumstances allow the assigned Safer Schools Officer (SSO), if there is one, should be consulted prior to the arrest. Otherwise, the SSO or relevant Safer Neighbourhood Team should be informed of the arrest as soon as reasonably practical.
- The arresting officer will ensure that the pupil's parent/carer is informed of the arrest as soon as possible
- In most circumstances, the first arrest of a youth under 16 for simple possession of an Offensive Weapon or Sharp Pointed Blade, with no aggravating factors, will result in the first instance with a youth conditional caution. This will be supported by an appropriate YOS intervention, preferably with elements focussed on anti-knife crime education. A youth aged 16 or over will normally be charged.
- The second arrest of a youth under 16 for simple possession of an Offensive Weapon or Sharp Pointed Blade will result in a charge (unless, in exceptional circumstances, 2 years have passed and it is considered appropriate to give another youth conditional caution).
- The new offence of threatening a person in public or on school premises will result in a youth aged 16 or over going straight to charge, as this offence carries a minimum sentence of a 4 months detention and training order and therefore should not be dealt with using an out of court disposal.

Post incident

- Consideration of what is needed to manage the situation immediately post-incident to ensure the safety of pupils, staff and members of the public
- In the case of a serious incident the Local Authority should be informed in line with the Council's Incident Reporting Procedure

- Support for the staff and pupils involved should be arranged by the school and Local Authority

Educational Provision

- In line with Croydon's Early Help procedures an early help assessment should be undertaken, if not done so already, on any pupil found to be in possession of an Offensive Weapon
- Appropriate school sanctions (for example, whether to permanently exclude or otherwise) needs to be at the discretion of the Headteacher after a full investigation into the incident has taken place, in accordance with DfE guidance: 'Exclusion from schools and pupil referral units in England.'
- It is recommended that in cases where, following an investigation of an incident, a pupil is judged to be at risk of permanent exclusion the school presents the case to Croydon's Fair Access Panel. The panel will give consideration to the nature of the incident and may recommend an alternative placement as an avoidance to permanent exclusion