

WEAPONS IN SCHOOLS

WEST MIDLANDS POLICE GUIDANCE DOCUMENT

INTRODUCTION

When a young person makes a decision to take a knife or other offensive weapon into a school, it is a serious one with potentially fatal consequences.

Violence reduction, prevention of crime and intervention are strategic priorities for West Midlands Police; it is critical that the reasons for possession by students are fully understood to enable proportionate early intervention to take place to reduce the likelihood of repeat possession.

This document has been created for guidance, support and to advance the knowledge of school leaders around the powers and law when dealing with offensive weapons.

West Midlands Police are committed to preventing crime, protecting the public from harm and helping people in need. Keeping schools and wider communities safe, reducing the risk of young people getting drawn into crime or anti-social behaviour, and building trusting relationships with students, staff and neighbourhoods are essential to achieving these aims.

CORE PRINCIPLES

As young people develop into maturity they naturally experiment with their behaviour and test boundaries. The younger they are the less capacity they will have for restraining themselves, resisting temptation or resisting peer pressure.

None of this excuses poor or criminal behaviour. It actually increases the need to intervene as early as possible, to show that actions have consequences, and that harm is being caused.

Police and partner intervention should assist in one or more of the following ways:

- Confront young people with the consequences of offending
- Help young people to develop a sense of personal responsibility
- Manage risk to young people within the community
- Reinforce the serious nature of weapon-related crime
- Strengthen factors that reduce the risk of re-offending
- Encourage reparation
- Encourage the restoration of relationships of trust
- Define, agree and reinforce the responsibilities of parents

West Midlands Police will be firm, fair and consistent with young people involved in crime. The principal aim of the youth justice system is to prevent and reduce offending by children and young people. To this end, we have agreed to make most decisions on offence resolution for young people in partnership with Youth Offending Services whose experience and skills will be fully utilised. We believe that more time and effort invested in dealing with offending behaviour at this early stage will better serve our communities over the longer term.



INCIDENT REPORTING

Where an immediate police response to an incident at the school is required, dial 999.

For example: a student has been detained in possession of a knife on school premises and poses, or is likely to pose, a risk of:

1. Danger to life.
2. Use or immediate threat of use, of violence.
3. Serious injury to a person.
4. Serious damage to property.

When there isn't such an immediate risk, schools should report incidents to the police non-emergency number by dialling 101.

For example, a student has been searched and found to be in possession of a knife which has been seized, and the student does not pose any further risk as detailed above.

Due to the serious nature of weapons possession and potential consequences, contact should be prompt in order that future risk is managed and behaviour confronted.

When reporting incidents of weapons possession to 101, schools should always request and record the incident log reference number. This will facilitate further contact in relation to the incident.

Schools are asked to retain the weapon in a safe place until police attend and seize the weapon for evidential purposes. Once it is established that a weapon is unlawful, a crime record will be created and a proportionate investigation will ensue.

ADVICE FOR PRIMARY SCHOOLS

The age of criminal responsibility is currently 10 years old which means that children under this age are not considered liable for their actions under the law. However, it is imperative that every opportunity is taken to intervene and prevent the likelihood of further weapons possession or offending. This guidance, therefore, is as relevant to primary settings as it is to secondary schools and further education establishments.

From a school perspective, the DfE Searching, Screening and Confiscation Guidance (February 2014) states:

'Any weapons or items which are evidence of an offence must be passed to the police as soon as possible.'

As outlined below, possession of an offensive weapon or bladed article on school premises is an offence under the Criminal Justice Act 1988, therefore all incidences of possession **must** be reported to the police by schools regardless of the age of the child.



LAW AND DEFINITIONS

Possession of a weapon is a criminal offence. The law provides the police and schools with specific powers to deal with incidents involving weapons.

POSSESSION OF AN OFFENSIVE WEAPON/BLADED ARTICLE ON SCHOOL PREMISES

Section 139A of the Criminal Justice Act 1988 creates the offence of possessing an article with a blade or sharp point or an offensive weapon on school premises.

Offences

- Section 1 of the Prevention of Crime Act 1953 prohibits the possession in any public place of an offensive weapon without lawful authority or excuse.
- Section 139 of the Criminal Justice Act 1988 prohibits having with you, in a public place 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)
- **139A(1) Any person who has an article to which section 139 of this Act applies with him on school premises shall be guilty of an offence.**
- **139A(2) Any person who has an offensive weapon within the meaning of section 1 of the Prevention of Crime Act 1953 with him on school premises shall be guilty of an offence.**

Meaning of Offensive Weapon

Any article made or adapted for use for causing injury to the person, or intended by the person having it with him for such use by him, or by some other person.

The meaning of offensive weapon can be broken down into two categories:

- a) Those that are offensive per se, that is, those either made (e.g. knuckle-duster, dagger, gun) or adapted (e.g. broken bottle) for use for causing injury to the person; and
- b) Weapons not so made or adapted (e.g. kitchen knife, spanner, hammer) but intended by the person having it with him for causing injury to the person.

Defences

- 139A(3) It shall be a defence for a person charged with an offence under subsection (1) or (2) above to prove that he had **good reason or lawful authority** for having the article or weapon with him on the premises in question.
- 139A(4) Without prejudice to the generality of subsection (3) above, it shall be a defence for a person charged with an offence under subsection (1) or (2) above to prove that he had the article or weapon in question with him:-
 - (a) for use at work,
 - (b) for educational purposes,
 - (c) for religious reasons, or
 - (d) as part of any national costume.

Meaning of school premises

139A(6) In this section and section 139B, "school premises" means land used for the purposes of a school excluding any land occupied solely as a dwelling by a person employed at the school; and "school" has the meaning given by section 4 of the Education Act 1996.



Notes:

(i) These offences can be committed at **any time** of the day, not merely during normal school hours, as long as the land is normally used as school premises (e.g. for the normal academic year). The creation of these offences was intended to cover a gap in the law where such weapons are carried on school premises which are not public places because many schools do not allow access to the general public outside school hours.

(ii) However, the wording of section 139A above is such that the offences could be committed on school premises even when the public do have access (e.g. a youth has a 10cm (4 inch) long knife at a public car boot sale being held on school playing fields on a Bank Holiday Monday). There is, therefore, some overlap with the older legislation concerning the possession of offensive weapons and sharp blades in public.

(iii) There is a specific police power to enter and search school premises in connection with an offence under this section.

BB GUNS (PLASTIC PELLET GUNS)

The possession of these types of guns under legislation is not an offence as they are deemed to be toys. However, if from a school’s perspective they breach school rules, they could be seized and retained under the Education Act.

If an item is found which is suspected to be a gun, and it cannot be ascertained whether it is a genuine firearm or a BB gun, it should always be treated as a firearm and the police called to make that decision.

Possession of these items becomes an offence when a person is misled into believing they are genuine firearms in order to provoke fear; the BB gun may then be classed as an imitation firearm. Circumstances giving rise to this belief may include use:

- 1. in connection with a robbery
- 2. to threaten someone
- 3. as a weapon to assault someone, e.g. pellet injures

POSSESSION OF A TASER (STUN GUN)

Classed as firearms, TASERS discharge a high level of voltage designed to incapacitate a person; any possession of such items is a serious offence and should be reported to the police. Disguise or concealment of a TASER as another item e.g. mobile phone, is considered a serious aggravating factor. TASERS may be designed to look like torches or mobile phones, but will usually feature metal prongs which are fired to penetrate the skin and discharge an electrical current via fine filaments. Stun guns use metal electrodes to deliver shocks via direct contact.



Handheld Stun Gun



Concealed Stun Gun (Torch)



Concealed Stun Gun (Phone)



MEMBERS OF STAFF POWERS TO SEARCH PUPILS

Section 550ZA of the Education Act 1996 enables a Headteacher /Principal or other authorised member of staff of a school in England, to search a pupil and their possessions, if they have reasonable grounds to believe that the pupil is carrying a prohibited item.

- 550ZA (1) This section applies where a member of staff of a school in England:
 - (a) has reasonable grounds for suspecting that a pupil at the school may have a prohibited item with him or her or in his or her possessions; and
 - (b) falls within section 550ZB(1).
- 550ZA (2) The member of staff may search the pupil ("P") or P's possessions for that item.
- 550ZA (3) For the purposes of this section and section 550ZC each of the following is a **prohibited item**:
 - (a) an article to which section 139 of the Criminal Justice Act 1988 applies (knives and blades etc.);
 - (b) an offensive weapon, within the meaning of the Prevention of Crime Act 1953;
 - (c) alcohol, within the meaning of section 191 of the Licensing Act 2003;
 - (d) a controlled drug, within the meaning of section 2 of the Misuse of Drugs Act 1971, which section 5 (1) of that Act makes it unlawful for P to have in P's possession;
 - (e) a stolen article;
 - (ea) an article that the member of staff reasonably suspects has been, or is likely to be, used -
 - (i) to commit an offence, or
 - (ii) to cause personal injury to, or damage to the property of, any person (including P);
 - (f) an article of a kind specified in regulations ;
 - (g) any other item which the school rules identify as an item for which a search may be made

EDUCATION ACT 1996 - POWER OF SEARCH SUPPLEMENTARY (AUTHORISATION/CONDITIONS) (ENGLAND ONLY)

Section 550ZB of the Education Act 1996 sets out the conditions before a search can be carried out on a pupil or their possessions under section 550ZA (English school only).

550ZB(1) A person may carry out a search under section 550ZA only if that person:

- (a) is the Headteacher/Principal of the school; or
- (b) has been authorised by the Headteacher/Principal to carry out the search.

550ZB(4) A search under section 550ZA may be carried out only where:

- a) the member of staff and P are on the premises of the school; or
- b) they are elsewhere and the member of staff has lawful control or charge of P.

550ZB(5) A person exercising the power in section 550ZA to search for an item within section 550ZA(3)(a) to (f) **may use such force as is reasonable** in the circumstances for exercising that power.

550ZB(6) A person carrying out a search of P under section 550ZA:

- a) may not require P to remove any clothing other than outer clothing
- b) must be of the same sex as P, unless the condition in subsection (6A) is satisfied
- c) may carry out the search only in the presence of another member of staff, unless the condition in subsection (6A) is satisfied; and
- d) must ensure that the other member of staff is of the same sex as P if it is reasonably practicable to do so.



550ZB(6A) The condition is satisfied if:

- a) the person carrying out the search reasonably believes that there is a risk that serious harm will be caused to a person if the search is not carried out as a matter of urgency, and
- b) in the time available it is not reasonably practicable for the search to be carried out by a person of the same sex as P or in the presence of another member of staff (as the case may be).

550ZB(7) P's possessions may not be searched under section 550ZA except in the presence of:

- a) P; and
- b) another member of staff, unless the condition in subsection (7A) is satisfied.

550ZB(7A) The condition is satisfied if:

- a) the person carrying out the search reasonably believes that there is a risk that serious harm will be caused to a person if the search is not carried out as a matter of urgency, and
- b) in the time available it is not reasonably practicable for the search to be carried out in the presence of another member of staff.

POWER OF SEIZURE, RETENTION AND DISPOSAL

Section 550ZC of the Education Act 1996 states what powers are available to a Headteacher/Principal or other authorised member of staff of a school in England who discover prohibited items when searching a pupil or their possessions under section 550ZA.

550ZC(1) A person carrying out a search under section 550ZA may seize any of the following found in the course of the search:

- a) anything which that person has reasonable grounds for suspecting is a prohibited item
- b) any other thing which that person has reasonable grounds for suspecting is evidence in relation to an offence.

550ZC(2) A person exercising the power in subsection (1) to seize an item within section 550ZA(3)(a) to (f) or anything within subsection (1)(b); may use such force as is reasonable in the circumstances for exercising that power.

550ZC(6A) A person who seizes an item that is a prohibited item by virtue of section 550ZA(3)(ea) (article used in commission of offence or to cause personal injury or damage to property) under subsection (1) must:

- a) deliver the item to a police constable as soon as reasonably practicable,
- b) return the item to its owner,
- c) retain the item, or
- d) dispose of the item.

550ZC(6B) A person who seizes an item that is a prohibited item by virtue of section 550ZA(3)(g) (item for which search may be made under school rules) under subsection (1) must return it to its owner, retain it or dispose of it.

550ZC(6C) In deciding what to do with an item under subsection (6A) or (6B), the person who seized it must have regard to guidance issued for the purpose of this section by the Secretary of State.

550ZC(8) A person who, under subsection (1), seizes -

- a) an article to which section 139 of the Criminal Justice Act 1988 applies (knives and blades etc);**
- b) an offensive weapon; or**
- c) anything which that person has reasonable grounds for suspecting is evidence in relation to an offence;**

must deliver it to a police constable as soon as reasonably practicable.

