



Meeting: Safer Communities Executive Board
Date: 15 October 2008
Report Title: Protecting Young People from Violent Crime
Report of: The Local Safeguarding Children Board (LSCB)

Summary: This paper provides guidance to schools on the use of metal detecting wands and advises them on the protocols required. Each school would be expected to produce its own protocol signed up to by its governing body.

Recommendations: That the SCEB supports the LSCB to release this guidance to schools subject to any advice on wording.

Financial/Legal Comments: N/A

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Protecting young people from violent crime



Introduction

1 Haringey's Local Safeguarding Children Board (LSCB) and the borough's Safer School Partnership have worked together and alongside schools to consider the safety of secondary aged young people in relation to knife crime.

2 Knife crime among young people is a serious concern to parents, police, school staff and, more importantly, to the young people themselves. A recent MORI carried out on behalf of the Youth Justice Board (YJB) found that 29% of secondary school children admitted to routinely carrying a knife.

3 Schools and others are rightly concerned about the number of young people carrying knives and school staff work proactively to discourage this and to recognise the reasons why young people might feel the need to do so. All Haringey schools have robust procedures for behaviour management and for tackling bullying, and Haringey schools have one of the lowest rates of permanent exclusion in London. However, given the loss of young life across London (and elsewhere in the country) in recent years, concern has led schools to seek other means of ensuring the safety of young people in school and on the streets.

4 Haringey secondary schools are committed to working together, and with statutory agencies to reassure young people and their parents/carers by taking decisive action to safeguard them and especially protect them from the risk of knife crime. This position is fully supported by the Local Safeguarding Children Board (LSCB) whose statutory partners include the Local Authority; the Teaching Primary Care Trust; Great Ormond Street, North Middlesex and Whittington Hospitals; the Probation Service; the Youth Offending Team; and the Metropolitan Police.

5 This paper focuses on the use of metal detecting devices in school as a method of deterring young people from carrying knives and to protect them both in school and in the community.

Metal detecting devices

6 A range of metal detecting devices is available for use in schools; from airport style metal detecting arches to hand-held metal detecting wands. No school wants to use metal detecting devices routinely – for example, having young people pass through arches each day, but they do see the value of such devices as a deterrent to provide improved levels of reassurance to both students and their parents.

7 Together, schools have agreed that having the use of metal detecting wands would be of benefit when occasional searches are required either of an individual student or groups of students or indeed for occasional routine screening of larger number of students, for example, a year group. The wands will register the existence of metal objects on a person. Legal advice states that the act of screening a person with a hand-held wand does not of itself constitute a search under section

1 of the Police and Criminal Evidence Act, as there is no contact made during the process. The indication provided by the wand may, however, provide grounds for suspicion that there is something concealed and therefore assist in providing the grounds for a further physical search.

8 As a result most secondary schools are considering the purchase and use of metal detecting wands. The decision to use such equipment in schools rests with the governing body of each school. *However, the use of the wands within an agreed protocol is supported by both the LSCB and the Safer Schools' Partnership.*

9 The introduction of these devices into secondary schools within Haringey will assist in maintaining a safe, secure environment. They will enable school staff and police officers to conduct non-intrusive searches of persons suspected of carrying weapons within the school. The use of such devices should be carried out in accordance with the guidance in this document.

Protocols

10 Governing bodies are advised that the use of metal detecting wands or other similar equipment must be supported by a written protocol for its use made available to the parents/carers, ideally giving them an opportunity to comment. Before this stage, headteachers are advised that they should consult their staff on the operation of the protocol and should engage them in drawing up and understanding the protocol. Officers from the CYPS and the Safer Schools' police officers are available for advice on the introduction and use of the protocols. and each body should be provided with a copy of the final agreed document. The protocol should be completed and circulated to parents *before* metal detecting wands are used in school.

11 The protocol should be applied in conjunction with the 'Guidelines for Searching Pupils within School Boundaries', summarised in Appendix I.

12 The protocol should include:

- a clear explanation of how the school intends to use the wands; that is, not routinely but as a deterrent used to search individuals or groups of students where concerns are raised or as an unannounced screening of larger groups;
- the staff who have been nominated as authorised to use the wands and if necessary to conduct more thorough searches of young people;
- plans for the initial training for those staff that would use the wand, and on-going refresher training at an agreed frequency and not more than every three years. This training would be not only focussed on the use of the wand but on the correct use of restraint for all those authorised to use it – this should correlate with the list of school staff that have been authorised to restrain young people;
- clear procedures about how records of the use of the metal detecting wands are to be kept and shared – see paragraph xx.
- the arrangements for recording the use of the wands and details of any young people who are found to be in possession of weapons;
- a clear outline what happens if a weapon(s) is found – see paragraph xx below.

What happens if a weapon is found?

13 Carrying a knife or other offensive weapons is potentially a criminal offence. Any weapons recovered should be sealed in protective tubes provided by police and retained for collection by the Safer Schools Police Officer. Parents/carers must be notified of all incidents where a student is in possession of a knife or offensive weapon. A record should be kept about the date, time, location, reason given for use of the weapon, the student's details, the details of person conducting the scan and the outcome. The records will be retrieved annually by the LSCB for monitoring purposes.

14 The incident should be reported to the police immediately and a statement completed. The Police Officer will be required to complete a MERLIN 'Young Person Coming to Notice of Police' information report. The young person may be required to attend the police station either through arrest or invitation. This will be a joint decision between police and school depending upon the individual situation.

15 The school will take action in line with its own behaviour policies. Permanent exclusion should not automatically follow the discovery of a weapon as circumstances will vary. It is likely that fixed-term exclusion may follow to enable the circumstances to be explored. However, in many cases it would be more helpful to retain the young person in school so that he/she and his/her parents/carers can be supported by appropriate agencies, in line with the aims set on in the introduction.

Referral to the Children and Young People's Service

16 When a young person is found to be in possession of a knife or other offensive weapon the school must immediately consider whether there is a need to refer them through the Single Referral Route and a decision will then be made about the need to conduct statutory child protection investigations. As a minimum, it is expected that the school will complete a Common Assessment Framework assessment on the young person which will then be used as a referral as appropriate. Schools can seek the advice of a child protection advisor, duty social worker, single referral route manager or the youth offending service if they are in any doubt about how or whether to assess or refer a young person.

17 Where child protection procedures are instigated, the strategy meeting will consider any action required to safeguard the young person and the Police and Crown Prosecution Service (CPS) will make a decision regarding appropriate action.

What happens to the young person?

18 The Crown Prosecution Service will consider the following options:

- Take No Further Action
- Warn the suspect in accordance with the Final Warning scheme, and refer to Youth Offending Service
- Charge to Court

Appendix I The Statutory Position

Knives and other weapons are the subject of two specific pieces of legislation.

Section 139A: Criminal Justice Act 1988 (Pointed / Bladed Articles)

This states that any person who has an article, to which Section 139 applies, with him on school premises, shall be guilty of an offence. The following items are prohibited by this legislation:

- any article which has a blade, and/or
- is sharply pointed

Folding pocket-knives are exempt from this legislation unless the cutting edge of the blade exceeds 7.62cm / 3 inches.

It shall be a defence for a person charged under this section to prove that he had good reason or lawful authority for having the article with him in a public place. A defendant may also show as a defence that he has the article:

- for use at work,
- for religious reasons,
- as part of any national costume.

Section 1(1): Prevention of Crime Act 1953 (Offensive Weapons)

Any person who without lawful authority or reasonable excuse, proof whereof shall lie on him, has with him in any **public place**, any offensive weapon, shall be guilty of an offence. This is further supported by ;

Section 139A(2): Criminal Justice Act 1988 as amended (School Premises:

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.

An offensive weapon is deemed to be any item that is;

- made to cause injury
- adapted to cause injury
- intended to cause injury

Please note:- Offences can be committed at any time of the day, not only 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 that are not public places because many schools do not allow access to the general public outside school hours. 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.

Appendix 2: Searching Guidelines, Powers and Definitions

The powers of search within school premises are contained in several pieces of legislation, the relevant sections are summarised below. There is also an explanation of a police officers right to search under section 1, Police and Criminal Evidence Act, 1984.

Powers of teachers to search

A member of the staff of a school may search a pupil or his possessions for articles and weapons where there are **reasonable grounds**¹ for suspecting that the pupil may have with him or in his possessions;

- a) an article to which section 139 of the Criminal Justice Act 1988 applies (knives and blades), and/or
- b) an offensive weapon (within the meaning of the Prevention of Crime Act 1953).

Several conditions are attached to the exercise of these powers. A search under this section may be carried out only where;

- a) the person carrying out the search is the head teacher of the school; or he/she has been authorised by the head teacher to carry out the search.
- a) the member of the staff and the pupil are on the premises of the school;
- b) they are elsewhere and the member of the staff has lawful control or charge of the pupil.

Nothing in any enactment, instrument or agreement shall be construed as authorising a Headteacher of a school to require a person other than a member of the staff of the school to carry out a search under this section.

Condition of Search Procedure

A person who carries out a search of a pupil under this section;

- a) may not require the pupil to remove any clothing other than outer clothing;
- b) must be of the same sex as the student; and
- c) may carry out the search only in the presence of another member of the staff who is also of the same sex as the student.

A student's possessions may not be searched under this section except in his/her presence and in the presence of another member of the staff.

¹ There must be some bona fide justification for searching the individual concerned.

If, in the course of a search under this section, the person carrying out the search he may seize and retain:

- a) anything which he has reasonable grounds for suspecting falls within the prohibitions outlined earlier
- b) any other thing which he has reasonable grounds for suspecting is evidence in relation to an offence,

A person who seizes anything under this act must deliver it to a police constable as soon as reasonably practicable – see paragraph xx.

The powers possessed by teachers in respect of searches of desks are as described above, namely, the property being searched is the property of the school rather than the student and the doctrine of *in loco parentis* would in any event permit such action where it could be shown to be in the interest of the welfare of students and/or for the purpose of the maintenance of discipline.

Use of Force to Conduct Search

A person who exercises a power under this section may use such force as is reasonable in the circumstances for exercising that power. Any question of the use of force by a teacher to carry out such searches (whether of property or of the person) requires an examination of s.550A of the Education Act 1996. It states that:

a member of the staff of a school may use, in relation to any student at the school, such force as is reasonable in the circumstances for the purpose of preventing the student from doing (or continuing to do) any of the following, namely-

- (a) committing any offence,
- (b) causing personal injury to, or damage to the property of, any person (including the pupil himself);
- (c) engaging in any behaviour prejudicial to the maintenance of good order and discipline at the school or among any of its pupils, whether that behaviour occurs during a teaching session or otherwise.”

Reasonable Force

There is no legal definition of ‘reasonable force’. So it is not possible to set out comprehensively when it is reasonable to use force, or the degree of force that may reasonably be used. It will always depend on all the circumstances of the case.

There are two relevant considerations:

- the use of force can be regarded as reasonable only if the circumstances of the particular incident warrant it. The use of any degree of force is unlawful if the particular circumstances do not warrant the use of physical force. Therefore physical force could not be justified to prevent a pupil from committing a trivial misdemeanour, or in a situation that clearly could be resolved without force.
- the degree of force employed must be in proportion to the circumstances of the incident and the seriousness of the behaviour or the consequences it is

intended to prevent. Any force used should always be the minimum needed to achieve the desired result.

Whether it is reasonable to use force, and the degree of force that could reasonably be employed, might also depend on the age, understanding, and sex of the pupil. Of course this power must be exercised with caution and the force used would have to be no more than necessary for achieving one of the aims stated in paragraphs (a) to (c) above. So for instance, a pupil who refused to open his desk could be removed from the classroom using reasonable force in order to facilitate the search of it.

Where searches of the pupil are concerned, it must be emphasised that the teacher will have to satisfy himself that there is some basis for engaging in this activity. It would for instance be acceptable to insist upon a search if the teacher had reason to believe that the pupil had in his possession controlled drugs or an offensive weapon: this would clearly come within the common law and be justified regarding the welfare of pupils, the maintenance of discipline and the prevention of the commission of an offence.

The Act allows all teachers at a school to use reasonable force to control or restrain pupils. It also allows other people to do so, in the same way as teachers, provided they have been authorised by the Headteacher to have control or charge of pupils.

All those authorised to use force should have training in safe restraint.

Headteachers should identify people, other than teachers, whom they wish to authorise to have control or charge of pupils and therefore be able to use force if necessary. Authorisation may be on a permanent or long term basis because of the nature of the person's job, or short term for a specific event such as a school trip. The Headteacher should explicitly inform the people concerned, and ensure that they are aware of and properly understand what the authorisation entails. To ensure that, Headteachers may find it helpful to arrange for a senior member of the teaching staff to provide training or guidance. They should keep an up-to-date list of authorised people and ensure the teachers know who they are.