



Legal issues bulletin

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Possession of Knives – Issues for Schools

What is the law in relation to the possession of knives?

The Summary Offences Act 1988 outlines the law in relation to the possession and use of knives. Principals should be aware of the following offence provisions of the Act which may have an impact on school operations –

- Without reasonable excuse, use a knife or carry a knife that is visible in the presence of any person in a school or in a public place that would be likely to cause a person of reasonable firmness present at the scene to fear for his or her personal safety. The maximum penalty is \$5,500 or two years imprisonment.
- Sell a knife or knife blade to a child under the age of 16 years of age. The maximum penalty is \$5,500
- Without reasonable excuse have custody of a knife in a public place or a school. The maximum penalty is \$2,200 or 2 years imprisonment or both.
- A parent knowingly authorise or permit his or her child (i.e. under 18 years of age) to possess a knife in a public place or school without reasonable excuse. The maximum penalty is \$550. For the purpose of the offence, parent includes a person who has guardianship or custody of the child.

What is a “knife”?

The definition of a knife is wide and includes a knife blade, razor blade or any other blade but does not include plastic knives that are designed for eating purposes. While not entirely clear, it is likely that scissors will not fall within the definition of a knife.

The legislation makes reference to “reasonable excuse” when it comes to possession and use of knives. What will amount to a “reasonable excuse”?

The Act sets out some specific circumstances which constitute a reasonable excuse but does not limit the defence to those circumstances. It is up to the person in possession of the knife to establish that they have a reasonable excuse. Some of the specific circumstances detailed in the Act that have relevance to schools are:

- lawful pursuit of the person's occupation, education or training and any travel to or from or incidental to such activities
- the preparation or consumption of food or drink
- participation in a lawful entertainment, recreation or sport
- exhibition of knives for retail or other trade purposes
- wearing of an official uniform
- genuine religious purposes

It should be noted that possession of a knife for self-defence is not regarded as a reasonable excuse.

What is the practical implication of the legislation on schools?

School principals should review procedures where the use of knives or knife blades is an essential requirement of a course and they are provided by the school following payment of a course or subject fee. In these situations, the knives or knife blades at all times must remain the property of the school and should be returned at the end of the course. The sale of knives or knife blades to students under 16 years of age must not be allowed.

Given the general community concern regarding knives, any arrangement where the school provides a knife or knife blade to students should include provision for the knife or knife blade to be returned at the conclusion of the class in which its use is required. This will also minimise the risk of breaches of the legislation by students. The use of knives in lessons conducted outside of school premises (e.g. excursions, field trips) should occur only in those circumstances where their use is considered essential for the purpose of the activity. Principals should ensure appropriate strategies are developed to ensure knives are used only when absolutely necessary.

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