



## **Protocol for working with the police**

**For**

**The Beckmead Trust**

**(Including assets on school sites)**

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## Protocols

Links between the police and schools can be of mutual benefit, especially when dealing with children who are in trouble. A good relationship can extend to the personal, social, health and citizenship education curriculum, via the provision of resources and support for projects that raise awareness of different types of crime.

This topic covers the benefits of establishing a good relationship with local police, as well as setting out the police's powers to enter school premises, interview pupils on site and request information held by the school.

## In Practice

### In Loco Parentis

In loco parentis ("in place of a parent") is the concept that someone with the care of a child stands in for the parent in his or her absence.

The school, and in particular the Head, acts in loco parentis and therefore must act as a reasonably prudent parent would to safeguard the rights and freedom of pupils within its care.

### Disclosure of Information

Information and advice from a pupil's secondary school — particularly information concerning relevant counselling support — may play an important role in helping police decide whether or not to prosecute a pupil for a crime.

The Head and other teachers are not obliged to disclose confidential information, but should co-operate with police by disclosing information in the school's possession. If it is done in good faith and without malice, no liability for defamation can be incurred.

The information should be treated as confidential and should not be used as a report for the court in the event of legal proceedings.

Under the Criminal Law Act 1967, it is an offence for any person to take or agree to take money, goods or any other type of gift for agreeing not to disclose information in their possession, which may assist police in prosecuting against a person. However, if a person agrees to make good the loss or damage caused by an offence, eg repairing a broken window, that is not regarded as a gift under the Act.

### Confidential information

Criminal liability will not be incurred if a teacher does not disclose information that is regarded as confidential. The teacher must not, however:

- destroy or conceal evidence
- enter into any kind of bargain not to make disclosure
- seek in any way to prevent or deter any potential witness from giving evidence.

The position of a Head as in loco parentis may make it necessary, in his or her professional judgment, to make use of the information in the interests of:

- the pupil who is involved
- a pupil whose parent is involved
- other pupils of the school.

#### Incriminating information

There is no obligation for a school to disclose information to the police that could potentially incriminate a second person in an offence. However, it is an offence to knowingly impede the apprehension of a person who is committing an arrestable offence.

A person who declines to answer a police officer's questions is not committing the offence of wilfully obstructing a constable in the execution of his or her duty, within the meaning of the Police Act 1964.

#### Reporting an Offence

The police must be called in the event of a serious criminal offence, eg:

- violence causing bodily harm to a pupil or member of staff
- criminal damage
- arson
- serious theft
- possession of drugs, offensive weapons or knives.

The Offensive Weapons Act 1996 makes it a criminal offence to possess an offensive weapon or knife on school premises.

Data from 32 police forces in England and Wales indicated that between April 2015 and January 2017, 2579 weapons were seized at schools. These included axes, air guns and almost 500 knives. At least 47 children found with weapons were reported as being primary school children under 10, the minimum age of criminal responsibility.

It is at the discretion of the Head whether to report such matters as fights between pupils or petty theft, although police help might usefully be sought to deal with persistent petty thieving.

The police may use all legitimate means to investigate crime and the school has the same duty as the public to assist them in this. It is quite acceptable, therefore, to give police the names and addresses of pupils. The police have to observe Codes of Practice under the Police and Criminal Evidence Act 1984. The codes do not affect:

- a citizen's duty to assist in the discovery and apprehension of offenders
- the right to consult a solicitor privately at any stage

- the fact that, other than on arrest, the police cannot compel anyone to come to or remain in a police station
- the need to charge without undue delay
- the need for all statements to be voluntary.

#### Right to Enter School Premises

Some schools and some local authorities do not permit uniformed police to enter their school premises other than in the course of a criminal investigation (although, in practice, police visiting a school in the course of an investigation often wear plain clothes).

Under the Children Act 1989, the police have the right to take a child into police protection, although the Act on its own does not give police a statutory power to enter school premises. This right can be conferred in other ways, eg by a warrant.

#### Entry under warrant

If an offence is suspected and the school refuses to co-operate, the police can apply to a magistrate for a warrant to enter and search school premises.

The magistrate must be satisfied that there are reasonable grounds for believing certain conditions exist (eg a serious arrestable offence has been committed) and that access would be refused or that the purpose of the search would be frustrated.

If the police have a warrant for search or arrest, the Head must allow it to be executed. To resist would be obstruction and would constitute an offence.

The Head, or the senior member of staff present, must ask to see the warrant so that they can check exactly what the document authorises the police to do. They must also check whether there are any restrictions on police powers (for example, what parts of the premises can be searched or what the police can remove).

#### Entry without a warrant

Police have a number of powers to enter premises without a warrant, eg:

- to arrest a person for an arrestable offence, eg possessing or selling drugs or committing a sexual offence
- to prevent death or injury
- to prevent serious damage to property
- to deal with or prevent a breach of the peace.

Entry onto private property in order to prevent a breach of the peace will almost always be at the invitation of the owner.

Therefore, if the police are exercising their statutory powers, a Head should not resist, since to do so could result in the offence of obstructing a constable in the execution of his or her duty.

#### Entry to search for offensive weapons

Police officers have a right under the Offensive Weapons Act 1996 to enter school premises to search for articles with a blade or point and other offensive weapons, if they have reasonable grounds for suspecting that such articles are in the school. If found, such weapons can be seized by the police.

#### Powers to Screen and Search Pupils

Schools have the right to search pupils without their consent if there are grounds for suspecting that they are carrying knives or other weapons. Government advice points out that, while the law allows schools to conduct searches, this power is not a duty and should only be used where school staff judge that it is safe to do so and will not place them in personal danger. If a school decides that such a search would not be safe, the police should be called.

#### Police Interviews

A child or young person should not be interviewed or arrested at school if such action can possibly be avoided. If it is essential to conduct the interview at school, it should be done only with the consent, and in the presence, of the Head or the Head's nominee. A Head must be satisfied that such an interview is necessary and by ensuring that this is so will not be guilty of wilfully obstructing a police officer in the execution of his or her duty. Indeed, for Heads not to satisfy themselves on that matter would be a failure to discharge their duty in loco parentis.

The Codes of Practice make it clear that as far as practical, children and young persons under the age of 17, whether suspected of crime or not, usually should only be interviewed in the presence of a parent or guardian, or in their absence, someone who is not a police officer.

A reasonable time should be allowed to enable an appropriate adult to be present at the interview. Provided that the suspected offence does not involve the educational establishment, the Head or a nominee can act as the appropriate adult for purposes of the interview if waiting for a parent or guardian would cause unreasonable delay.

If the police have reasonable grounds for believing that a pupil has committed an offence and wish to interview him or her, they must formally caution the pupil before commencing the interview. Otherwise, they will fail to comply with the Police and Criminal Evidence Act 1984.

If the police ask to question a child, the Head should check that the child freely agrees to give the information. If the pupil is female, a senior female member of staff must be present. There should also be an assurance from the police that the child will not be charged with an offence at the school or arrested on school premises. If no such assurance is given, the Head should initially refuse to allow the interview to take place.

If the police ignore the Head's refusal to produce a pupil or to allow questioning and insist on seeing the child, the Head should:

- accede under protest

- remain present throughout the questioning
- note the officer's number
- note the events that take place
- inform the school governors at the earliest opportunity to explain what has happened; in the case of a maintained school the local authority (LA) should also be informed, as should trustees and proprietors of academies and independent schools, where appropriate
- submit a detailed report of the incident to the LA, trustees, proprietors or governors as appropriate.

#### Police Protection

The Children Act 1989 gives the police the statutory power to take a child into police protection, ie to remove a child to a place of safety, although it does not give the police the right to enter school premises. Therefore, unless the police have a warrant or otherwise have the right to enter the school and search the premises, the Head (acting in loco parentis) could resist the taking of a child into police protection..

However, if the police have a legitimate reason to enter the school premises, a Head should not resist a child being taken into police protection. The Head may protest against, but not obstruct, their action.

#### Returning Truants to School

The police have the power under the Crime and Disorder Act 1998 to take back to school any child or young person who they have reasonable cause to believe is of compulsory school age and is absent from school without leave. Truancy is not a criminal offence for the child; it is the pupil's parents who are legally responsible for ensuring attendance. The child will not, therefore, be arrested and should not be taken to a police station.

#### Removal of Trespassers

Under the Education Act 1996, a police officer (or a person authorised by the local authority or governors) can remove from the school premises a person who:

- is there without lawful authority, or
- causes or permits a nuisance or disturbance.

While this Act does not apply to independent schools, police assistance can be requested in the event of a breach of the peace where undesirables might need to be removed from school premises.

#### 999 Calls

In an emergency, 999 should be called. Sufficient information should be given to enable the police to make a decision about the appropriate response to the call.

The operator will ask for the address and postcode of the school. As this type of information is often forgotten in times of stress, it should be prominently displayed next to all landline telephones and on stickers on all portable handsets.

### Valid Evidence

Under the Police and Criminal Evidence Act 1984 a confession will be excluded from evidence if it would have an adverse effect on the fairness of the proceedings. In deciding whether to exclude any confession, the court will consider all of the circumstances under which it was made.

Also, evidence will be excluded if it was obtained:

- by oppression (eg degrading treatment, use or threat of violence), or
- as a consequence of anything said or done that was likely to render the evidence unreliable (eg an inducement to make the statement, such as a bribe or a threat).

### Benefits of a Good Relationship

The police frequently liaise with schools, local authorities and social services departments to determine what course of action to take with children in trouble. Most police forces have a section that deals with community relations and may have specific school liaison officers.

Agreed liaison procedures between senior school staff and the police should be included in the local authority's child protection procedures. Most schools, including those in the independent sector, will follow these procedures.

Many schools have also developed connections with the local police that recognise the value of the police as a curriculum resource, with some police forces producing resource packs for schools to use. In many places, the local police officer is still a familiar figure who is welcome in the classroom. This role is often taken on by a police community support officer (PCSO).

Many schools have benefited from crimewatch projects that raise awareness of different types of crime and encourage children to be alert and look after their own and other people's property. Any invitation to the police to come into the school for these purposes should have the Head's approval.

### Community police

Increasingly community police officers or PCSOs are seeking ways of making positive links with schools and their pupils. This can include having a base in the school building. Some ways in which a local community officer might be able to support a school include:

- being a "presence" at key times of the school day, eg as children are arriving at and leaving the premises
- talking to children in class or assembly about their role
- giving advice to the school in relation to "stranger danger"

- giving advice to children and parents about safe journeys to school
- being available to discuss with parents and their children the implications of breaking the law, eg in cases of truancy, persistent thieving, assault
- being available on key dates, such as autumn/summer fairs and concerts, to support the school.

Making themselves approachable and accessible to the community is a key function of the community police officers' role. Schools can be instrumental in helping with this.

#### List of Relevant Legislation

- Violent Crime Reduction Act 2006
- Education Act 2002
- Crime and Disorder Act 1998
- School Standards and Framework Act 1998
- Education Act 1996
- Offensive Weapons Act 1996
- Criminal Justice and Public Order Act 1994
- Children Act 1989
- Police and Criminal Evidence Act 1984
- Criminal Law Act 1967
- Police Act 1967