

Having an item with a blade or point

This file contains two directions

Having an item with a blade or Point – with defence of lawful excuse

Having an item with a blade or point – where the only issue is knowledge)

Having an Item with a Blade or Point - with defence of lawful excuse

Having an article with a blade or point.

The prosecution must satisfy you so that you are sure that:

1. D** had with him in a public place

The defendant accepts that he had the *** in *** which is a public place.

2. an article which had a blade or was sharply pointed

Again, this is accepted. D** agrees that the *** had a blade or was sharply pointed.

However, it is a defence for a defendant to prove that he had good reason or lawful authority.

There is no suggestion that he had lawful authority.

However, he says that he had the *** because ***

Having an article with a blade or point to do ***gardening work may be a good reason.

Self-defence and revenge cannot be good reasons. It is illegal to have a *** in a public place if the intention is to use it to defend oneself if attacked or to use it to injure someone else in revenge for an earlier assault.

So, you must decide whether D** had a good reason for having the *** with him. The law is that that is a matter for him to prove on all the evidence.

However whenever the law requires a defendant to prove something, he does not have to make you sure of it. He only has to show that it is probable, which means it is more likely than not, that he had a good reason.

If you decide that probably he did have a good reason, you must find him 'Not Guilty'. If you decide that probably he did not have a good reason, then providing that the prosecution has made you sure that he had the *** in a public place, you must find him 'Guilty'.

So, the key question, having regard to all the evidence and the directions which I give you, is

Is it more likely than not that D*** had the ***because ***?

If the answer is “yes”, he is not guilty. If the answer is no, he is guilty.

Blade or point - only issue knowledge

“an item which had a blade or was sharply pointed”

This is accepted. D** agrees that the ** knife had a blade.

“in a public place”

Again, this is accepted. D** accepts that ** is a public place.

“had with him”

These words have to be read as “knowingly had with him”. D** cannot be guilty if he did not know that the knife blade was in his **.

However, merely forgetting about something is not enough to prevent someone from continuing to have it.

So, if D** knew that the blade was in his ** at some time in the past, but had forgotten about it, he “had it with him”.

It is possible to infer knowledge, having regard to all the evidence, from the surrounding circumstances.

The prosecution must prove that he knew that the ****knife was in his ***.

The defendant does not have to prove that he did not know that it was there.

“without good reason or lawful authority”

This does not arise on the evidence in this case.

There is no suggestion that D** had “lawful authority” so you do not have to consider those words

Nor can he have had a good reason if he did not know, as he says, that the knife blade was in the **.

Having a knife blade to carry out DIY tasks (e.g. ***) may be a good reason but there is no suggestion that D** put the knife in his ** to do this. His evidence is simply that he did not put it in the **.

So, the key question for you to answer, having regard to all the evidence and the directions which I give you, is this

At some time did D** know that the *** was in his **?

If you are sure the answer is “yes, he is guilty. If the answer may be “no”, he is not guilty.