

## *Athames and the law* ©

### **Before the beginning – all about athames**

As we start on this increasingly complicated subject, what do we understand by the term, athame (a-thar-may)? You could be simplistic and say that it's a ceremonial knife, but what then do we say about daggers, bolines, swords or bladed wands? Many athames do have some common features.

1. They are made of metal, ie iron, steel, copper or bronze.
2. Some are made of natural materials, like carved wood or deer antler.
3. They may have symbols, runes or sigils on the handle, guard or blade.
4. Sometimes the handle or sheath has a pentacle on it.
5. In the main, the handles are black.
6. Mostly, the blades are double-sided.
7. Handles may be made of metal, darkened bone or wrapped wire.

Neo-Wiccan lore says that an athame should not cut anything other than lines of energy during magick, never to draw blood and should have its point blunted. More traditional witches might well disagree and claim that an athame is an essential magickal tool – to be used for pretty much anything really, providing it is cleansed afterward. So, one could use an athame for cutting a ritual cake, inscribing symbols on candles during a spell, blessing salt – all sorts of tasks really.

All I'll say is that this traditional witch has used an athame for all these little jobs, but it's not a personal weapon (I'll use the kitchen knives or a decorative cavalry sword for that, thanks). My blade is cleansed/ blessed before and after use and it's kept very sharp. Some of you have seen it – it's a curved Arabian dagger (very old) – and works just fine. To help look after the blade, I use a beeswax polish rubbed onto the blade, left for a day and then cleaned with a cloth.

And an athame might have been a weapon for solitary witches in the past – you should try to remember that before buying an athame. You won't be expected to use it to hunt for your dinner with it or kill marauders, but you never know. Occasionally, you may be given an athame as a gift – mine was given to me courtesy of my father – but it's still a magickal tool. Does it fulfil your needs and intent? If so, then cleanse and bless it. Even the original King Arthur acquired his athame by pulling it from the stone.



How much would you expect to pay for an athame? Cheap ones might start at about £10-£15, but a good athame averages about £40. A good boline or dirk might be a little cheaper at about £30. Swords come in all sizes and metals and it's difficult to estimate, but a good long sword or claymore might cost between £80-£140.

### Legal guidance on carrying ceremonial blades

There has always been a debate about carrying blades in public places, including those destined for religious rituals, not only athames or swords, but also axes or spears too. It is fair to say that a lot of work has been done by both the Druid Network and the Pagan Federation, in liaison with the Home Office, to clarify the issue, but first, let's look at the law itself in England and Wales.

The original problem was to differentiate between the legal definition of a weapon and a tool. In law, an offensive weapon is any article *made or adapted for the purpose of inflicting either mental or physical injury upon another person*. That's according to the **Prevention of Crime Act 1953** and it's an offence to carry an offensive weapon on or about the person whilst in a public place without a legitimate reason. A tool is an implement to carry out a particular task or function. By this definition, athames and other ritual blades are deemed to be offensive weapons and should not be carried in public without a lawful reason – or the owner/ carrier is liable to be arrested.

Then came the **Criminal Justice Act 1988** (s.139), which set out an arrestable offence of possession of a bladed or pointed article in a public place. There are some legal defences to this charge for people found carrying bladed articles in public.

1. It's a legal defence against this charge if you can show that you have a good reason or a lawful authority for carrying the article in public.
2. It's a legal defence against this charge if you can show that you have the article for use at work.
3. It's a legal defence against this charge if you can show that you have the article as part of a national costume.
4. It's a legal defence against this charge if you can show that you have the article for educational purposes.
5. It's a legal defence against this charge if you can show that you have the article for religious reasons.

Before you ask the obvious question, the Police Pagan Association has advised that the religious reasons defence may include the possession of an athame or a boline at a public ritual. Also, anyone dressed in full Druidic regalia may be considered to be wearing a national costume for the purpose of this legislation. However, the Pagan Federation advises that any blades or pointed instruments should be carried within baggage and not worn conspicuously on the way to a celebration or ritual.

However, the 1988 Act was amended, in part, by the **Knives Act 1997** in the following respect. A new arrestable offence was created for the unlawful marketing of knives, particularly those suitable for combat or violent behaviour. In fact, it was not only marketing of knives in this way, but also the sale or hire of such weapons. And, there was a strict emphasis on any vendor selling such items to verify the age of young people (ie aged less than 18 years).

The **Criminal Justice Act 1988** was amended even further by the **Offensive Weapons Act 1996** and the **Violent Crime Reduction Act 2006**. Now, there were new arrestable offences regarding the sale of the following items to people aged less than 18 years:

- a) Knives, knife blades or razor blades
- b) Axes
- c) Any pointed blades, made or adapted as weapons
- d) Sheath, craft or carpet knives
- e) Zombie knives.

The prohibition does not apply to scissors, replacement cartridges for razor blades (where less than 2mm of the blade is exposed) or folding pocket knives if the cutting edge of the blade is less than 7.62 cm. It is a defence to show that you took all reasonable precautions and due diligence to avoid committing the offence, together with the lawful sale of items to armed forces personnel, as antiques or as collector's pieces.

It is worth noting (perhaps) that anyone found guilty of an offence under the **Criminal Justice Act 1988** regarding the sale of bladed articles to someone under the age of 18 years, is liable to a prison term up to 6 months' maximum and/ or a fine of £5000 maximum.

If anyone is found guilty of an offence under the **Knives Act 1997** over the way a knife is marketed, the same penalties apply (on summary conviction), but the penalties rise for conviction on indictment to a two-year prison term and/ or a fine.

Before we leave this morass of legal rules, it is worth mentioning that there could be special risks for young people who are interested in paganism and are under the age of 18 years. A word of warning for you or your child – do not bring an athame or boline into school or college as an aggravated form of the 1988 offences was introduced in 2012. Under the **Legal Aid, Sentencing and Punishment of Offenders Act 2012**, it is an offence to possess an offensive weapon or bladed or sharply pointed article in a public place or on school premises, when the person in possession of the weapon uses it to threaten another in such a way that there is an immediate risk of serious physical harm to that person. Offenders aged 16 years or over, who are convicted of the aggravated offences will receive minimum custodial sentences.

My advice is that, if you are speaking about paganism in a school or college or whatever, leave the blades at home. Describe the knives and take photos to show people, but limit your talk to wands or non-threatening magickal tools. Likewise, the **Criminal Justice and Courts Act 2015** introduced a minimum custodial sentence that the court must impose where a person aged 16 years or over is convicted of an offence of possession and has at least one previous *relevant conviction* for an offence of possession of, or threatening with, an offensive weapon.

## The law in practice

OK, well done for keeping up thus far! Still on athames – do pagans have any rights to carry knives or swords to rituals? Well, there has been some case law on this issue and one of the best-known cases was *R. v Arthur Pendragon* (Southwark Crown Court, November 1997).

Professor Ronald Hutton put forward a witness statement for Arthur Pendragon and the case was decided in Arthur's favour, giving him the right to wear his ritual sword (Excalibur) in public whilst also wearing his ritual robes. This case set a precedent and some of Professor Hutton's statement is set out below, in respect to the carrying of ritual knives.

*Virtually everybody in the Western world has heard of the Druids, as they are part of the common cultural inheritance of our civilisation. Arthur Pendragon holds formal office in no less than three (groups), being the Pendragon of the Glastonbury Order of Druids and the Swordbearer of the Secular Order of Druids, as well as leading his own order, the Loyal Arthurian Warband, as chief.*

*The Loyal Arthurian Warband, over which he presides, is now one of the largest modern Druid orders and is divided into three levels or circles according to the degree of commitment desired of its members. Its members define themselves by swearing to three things. To tell the truth, to uphold honour and to fight for justice. The first is fundamental, as it is believed that insincerity and dishonesty corrode the bonds of the Warband and destroy any hopes it has of winning and retaining the public esteem.*

*The central emblem of the Loyal Arthurian Warband is the ceremonial sword, which Arthur himself has carried from 1987 until its confiscation by the Police upon April 12 1997. He identifies it with the original Excalibur of the Arthurian legends. It has been used to dub knights of the Band, which is the formal rite of admission to the group, and oaths are taken upon it in other ritual contexts – within this, a sword represents the human will, which is expected for solemn purposes to be as strong and straight as the blade and pure as the steel of which it is made.*

*A related aspect of this tradition is that a sword used in a sacred and ritual context is polluted by being used for violence. The legendary Excalibur was a fighting weapon, employed in battle; this one functions in virtually the opposite role, as a purely symbolic object, comparable to the four swords carried in the coronation ceremony of British monarchs, or to the maces of town councils, universities and of the House of Commons.*

*Precisely the same considerations apply to the ceremonial dagger carried by Arthur Pendragon until its confiscation by the Police upon the same date. In the Western tradition of ritual magic, described above, the dagger functions as a miniature equivalent to the sword and likewise represents the human will. It is often deployed in a magical context for which a sword would be unwieldy, such as drawing sacred signs upon the air, but it also functions in a more practical role, of cutting herbs, plants and flowers used for medicines or as ritual decorations and symbols. The most celebrated example of this in Druid tradition is the ritual gathering of mistletoe. I have seen Arthur employ his own ceremonial dagger in this latter capacity and for no other purpose.*

*It may be helpful in the context to note that a black handled ritual knife, known as an Athame, has become the prime symbol and ceremonial object of the modern Pagan religion of Wicca, drawing upon the same body of tradition, no Wiccan can practise his or her religion without the possession of one.*

Not every court case that involves pagan blades has a similar outcome though, but the trend does appear to be clear. In 2009, a man from Benfleet (Essex) was arrested and brought before magistrates at Basildon Crown Court. The case came to trial in October and the charge involved possession of offensive weapons (a ceremonial knife, nunchucks and a baton). However, when the defendant claimed that he'd brought the items out of his house by mistake and that he owned them as part of his pagan faith, the CPS dropped all charges.

The Debbie King case was less clear-cut. Ms King was en route to a BBC interview on 9 May 2006, when she attended Fareham Court, but found that as she didn't have time to go home and change before the interview, so she put her ritual robes in a sports bag and the athame was wrapped in her robes. She left the bag to be looked after by the court security team, who discovered the athame and Ms King was arrested for possession of an offensive weapon. Later, it was revealed that Debbie King was a Druid priestess and had a lawful reason to be carrying her athame to a ritual – and the CPS duly dropped the charges, but the athame was not returned to its owner until 31 October 2006.

So, the case law to date appears to be clear, ie if you can prove you are pagan on the way to a ritual and you have no violent intent, it is unlikely that an athame will be seen as an offensive weapon. In fact, the Metropolitan Police handbook (2010) states openly that,

*"When entering a witch's home do not touch an athame without the owner's permission. During the time that celebrates the festival of Beltane (around the end of April), it has become a custom for some to wear athames in various sizes, sometimes sword size, on a belt, as a visible symbol of their pagan faith and to wear them in the streets. These are not intended to be used as an offensive weapon but might be misinterpreted as such."*

## **Emergency advice**

That doesn't help me much, because I don't take my athame to rituals, but I almost always take my ritual staff, which is almost 2m tall with antler horn on top. If someone felt threatened by my staff, is this an offensive weapon too? The legal answer appears to be: do not openly carry such ritual tools in public places, particularly not athames, swords or bolines, unless they are covered by cloaks. Any blades can be concealed in sheaths or carrying bags. Staves are still a grey area, but I cover the end of mine in bubble wrap and card, both to protect from misadventure and to keep people safe. And, of course, do we really need to take swords or large knives to rituals anyway?

So, what should you do if stopped by the police with regard to you carrying an athame in public? Here is a recommended course of action, but try to remember that the police have difficult enough jobs as it is and unnecessary confrontations will not help your case.

1. Answer any questions politely, truthfully and without sarcasm.
2. The police officer will not know you are pagan – just that you are carrying a big knife in public. The situation may be much worse if you're toting a large sword.
3. Try to convince the police officer rationally and with proof of your pagan credentials. I carry my Pagan Federation card with me and other pagan organisations may issue similar proofs.
4. If the officer insists that you are carrying an offensive weapon, he or she is entitled to take the athame from you, so do not make a fuss.
5. This part is important – you will be offered the choice between accepting a caution for carrying the item or arrest. If you opt for the caution, two things happen – your athame will be sent for destruction and a note of the caution goes on your record, which is not helpful for those who require DBS certificates for work,
6. Remain polite to the police, refuse the caution and insist on a receipt for your athame – do not surrender any ritual tool to the police without a receipt.
7. You will be arrested and taken to the police station, where you will be offered a caution again – with the same result as (5) above.
8. You may be charged with carrying an offensive weapon, so ask for the receipt for your athame, else you will not see it again for months (like Debbie King).
9. Insist on seeing a qualified solicitor and say nothing until he or she arrives. Explain to your solicitor that you are pagan and your athame is for a genuine religious purpose. Do not agree that you are carrying a weapon, but make it clear that it is for pagan ritual only and stay both calm and civil.

What happens then? Well, you've been charged and, most likely, will be bailed to appear before local magistrates whilst the CPS consider whether it's worth the time and money of a prosecution. If it does go to a prosecution, you will be given a court date. One small note here – the **Criminal Justice and Courts Act 2015** places restrictions on the use of cautions. For certain specified, either way offences, including offences relating to offensive weapons and bladed articles, a caution must not be given unless an officer of at least the rank of Inspector determines that there are exceptional circumstances relating to the offender or the offence.