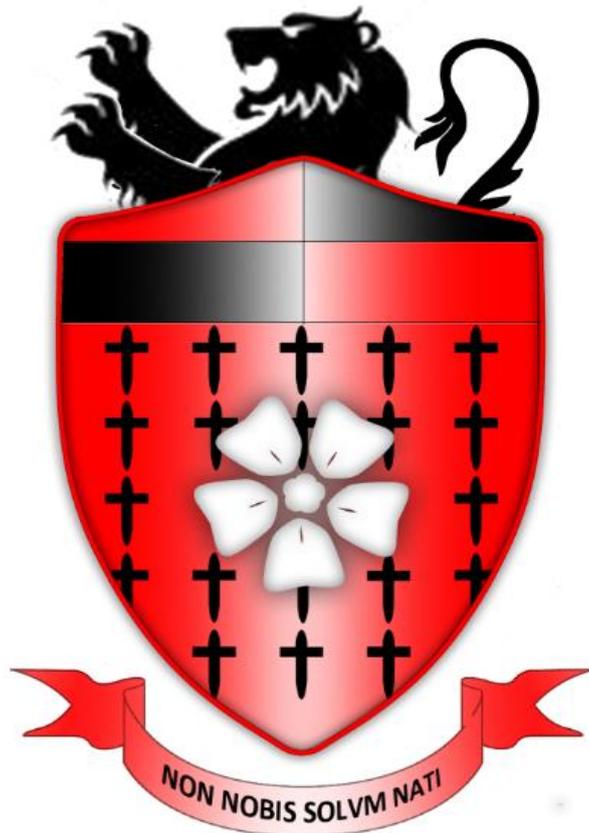


Hornsea School & Language College



Drug & Substance Misuse Policy

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Drug & Substance Misuse Policy

A statement to Parents / Carers

Hornsea School and Language College (HSLC) adopts a clear and robust stance on the misuse of substances by pupils either individually or collectively, recognising the harm and risk associated with the possession and misuse of illegal substances and the abuse of legal substances, it also includes the distribution of any such substances. The approach is based upon 'Zero Tolerance' of any such activity, which is likely to be viewed as a 'serious one-off incident' that could jeopardise the continuation of a place at HSLC.

Furthermore, information relating to the misuse of substances, in or out of school, will be regarded as a safeguarding issue and school safeguarding procedures will be followed. It will also be considered in the context of the school Behaviour Policy that spans conduct in and out of school. Since the first priority is your child's welfare, there may be rare occasions when our concerns about your child means that we have to consult other agencies even before we contact you.

Local and National Guidance

The school will operate in accordance with legal requirements, statutory and local guidance and identified best practice - for example 'Drugs Guidance for Schools', DFES (2004), 'Drugs alcohol and tobacco curriculum guidance for schools', QCA (2003), "DfE and ACPO drug advice for schools: Advice for local authorities, headteachers, school staff and governing bodies'(2012) and Drug strategy 2017 (HO, July 2017). Particular attention will be paid to statutory guidance - Search, screening and confiscation: Advice for headteachers, school staff and governing bodies (January 2018) – see Appendix 1

In relation to the development and exercise of this Policy, due regard will be taken regarding statutory and local Safeguarding and Child Protection guidance and protocols, for example, Keeping Children Safe in Education (2021), Working Together to Safeguard Children (2018) and What to do if you're worried a child is being abused (2015)

The Purpose of the Policy

The purpose of this policy is to:

- Clarify the school's responsibilities and legal requirements
- Reinforce and safeguard the health, safety and well being of pupils and all school users to include staff employed at the school
- Clarify the school's approach to the misuse of substances for all members of the school and wider community
- Give guidance on developing, implementing and monitoring the school's drug education programme
- Enable staff to manage drugs and drug related incidents on school premises with consistency, and in the best interests of all involved
- Ensure that the response to drug-related incidents is in line with the school's approach to the drug education programme and with the school's values and ethos and commitment to Safeguarding / Child Protection

Extent of the Policy

The limits of the school boundaries and responsibilities in certain circumstances extend beyond the school premises, to include all off-site pupil behaviour and activities such as work experience and school trips. Please also refer to Appendix 4 - Out of School Behaviour Expectations – notably that 'Instances of poor behaviour and conduct falling outside of school expectations will be considered

and dealt with by school on a case by case basis, after careful consideration of the circumstances and impact of the behaviours and whether there is a role and implications for school' (DFE guidance: *Behaviour and Discipline in Schools* January 2016)

The policy applies at all times when staff 'duty of care' responsibilities apply. The school is aware that some of its pupils may be particularly vulnerable, so staff must be particularly vigilant in terms of monitoring their welfare. School also remains mindful of and vigilant in terms of 'contextual safeguarding' responsibilities and will share information and concerns as appropriate in line with school and local safeguarding protocols should information emerge in terms of 'out of school' issues / risks.

Definitions

This Policy applies to the consumption of any substance that changes thoughts, feelings and behaviour to. This includes:

- All illegal drugs (Misuse of drugs Act 1971)
- All legal drugs, including tobacco, alcohol and volatile substances
- All medicines (Medicines Act 1968)
- Problematic or harmful consumption or abuse of other substances (caffeine, energy drinks etc.) that could jeopardise health and development.
- Psychoactive Substances Act 2016

The School's Stance

The possession, use or supply of alcohol, illegal and other unauthorised drugs within school boundaries is unacceptable. The school cannot and will not knowingly allow the misuse of substances on the school site (possession, consumption or supply) and will take appropriate action as outlined below to deal with any such instances.

Managing drug related incidents at Hornsea School and Language College

1. When managing drugs and drug-related incidents, the first priority and immediate concern will be for the health, safety and well being of all involved. At all times, wherever it is appropriate, we will attempt to contact Parents/Carers but this may not be the priority contact in dealing with an incident. The Child Protection implications of any substance misuse related incidents will be carefully considered and addressed in line with the school Child Protection Policy and Procedures. This includes pupil and any parental substance misuse that may impact upon the health and wellbeing of those involved
2. The school will employ a range of responses so that the needs of the individual are balanced against those of the wider community. The precise response will be determined after a full and careful investigation into the exact nature of the incident. Pupils will be aware of the range of possible responses and the effect those responses may have on them through related behaviour policies
3. Support for pupils, as appropriate (immediate and ongoing), will be a priority, including referrals to specialist external agencies. In such cases, careful attention will be given to issues of confidentiality in line with the School's policies and procedures
4. Liaison with the Media: The Head Teacher will take responsibility for liaison with the media. As the issue of substance misuse is an emotive one, and is likely to generate interest from the local and national media, the school will take appropriate advice and guidance from the LA to ensure that any reporting of incidents remains in the best interests of the young person or persons, their families and Hornsea School and Language College.
5. Any incident involving the possession, sharing / distribution / sale and misuse of illegal or unauthorised substances on the school site will be viewed with great seriousness and the outcome determined on a case by case basis taking full account of the facts. Substance misuse issues would potentially be viewed as a "serious one off" incident warranting the most serious sanction, in line with the "zero" tolerance approach adopted by HSLC.

Discovery of suspected illegal / controlled drugs or suspicious substances or incidents of on school premises

Staff discovering pupils under the influence of drugs or substances which are suspected of being harmful, illegal or requiring further investigation, should observe the following guidance:

- Where a pupil is suspected to be under the influence of drugs or alcohol on school premises, the safety of the young person and those around them will be prioritised. Consideration will be given to the possible need for immediate first aid and the school's first aid procedures followed, if necessary, this should be dealt with as a medical emergency
- Consideration will be given, depending upon circumstances, to contacting parents / carers and the Police. The situation will also be considered in the context of potential Safeguarding / Child Protection concerns and risk to the child
- General Power to Confiscate – s.91 of the Education and Inspections Act 2006, enables a member of staff to confiscate, retain or dispose of a pupil's property as a disciplinary penalty, where reasonable to do so. Substances which are not believed to be illegal / controlled drugs can be confiscated where it is believed that the substance may be harmful or detrimental to good order and discipline. (see Appendix 1)
- **Searching with Consent** - school staff (authorised by the Headteacher) can search a pupil for any item if the pupil agrees (the ability to give consent may be influenced by the child's age or other factors). Schools are not required to have formal written consent from the pupil for this sort of search – it is enough for the teacher to ask the pupil to turn out his or her pockets or if the teacher can look in the pupil's bag or locker and for the pupil to agree.
- If a member of staff suspects a pupil has a banned item in his/her possession, they can instruct the pupil to turn out his or her pockets or bag and if the pupil refuses, the teacher can apply an appropriate punishment as set out in the school's behaviour policy.
- **Searching Without Consent** - Head Teachers and staff authorised by them have a statutory power to search pupils or their possessions, **without consent**, where they have reasonable grounds for suspecting that the pupil may have a prohibited item. Prohibited items include alcohol, illegal drugs, tobacco and cigarette papers, and any item banned by the school rules which has been identified in the rules as an item which may be searched for (this would include NSP / Legal High's).
- **Searching Without Consent –** staff conducting search will be the same sex as the pupil being searched; and there must be a witness (also a staff member) and, if possible, they should be the same sex as the pupil being searched. There is a limited exception to this rule in that a search of a pupil of the opposite sex can be carried out and / or without a witness present, but only where there is a reasonable belief that there is a risk that serious harm will be caused to a person if the search is not conducted immediately and where it is not reasonably practicable to summon another member of staff. Pupil's expectation of privacy will be considered.
- School can seize any prohibited item found as a result of a search.
- Any search of a pupil will be conducted in accordance with statutory guidance - Search, screening and confiscation: Advice for headteachers, school staff and governing bodies (January 2018) – see Appendix 1
- Extent of the Search - The person conducting the search may not require the pupil to remove any clothing other than outer clothing. "Outer clothing" means clothing that is not worn next to the skin or immediately over a garment that is being worn as underwear but 'outer clothing' includes hats; shoes; boots; gloves and scarves. • 'Possessions' means any goods over which the pupil has or appears to have control – this includes desks, lockers and bags. A pupil's possessions can only be searched in the presence of the pupil and another member of staff, except where there is a risk that serious harm will be caused to a person if the search is not conducted immediately and where it is not reasonably practicable to summon another member of staff.
- **Use of Force** - Members of staff can use such force as is reasonable given the circumstances when conducting a search for knives or weapons, alcohol, illegal drugs, stolen items, tobacco and cigarette papers, fireworks, pornographic images or articles that

have been or could be used to commit an offence or cause harm. Such force cannot be used to search for items banned under the school rules

- If a pupil is, or is thought to be in possession of a suspect substance, staff should not attempt to search the pupil, unless authorised to do so by the Headteacher. Staff may ask the pupil to voluntarily empty his or her pockets or bag with a witness present. Staff may not forcibly detain the pupil. Staff will communicate all concerns regarding substance misuse immediately to the Headteacher, member of the Senior Leadership Team or Designated / Deputy Designated Safeguarding Lead and at this point a view will be taken on how best to proceed. Safeguarding, risk, school policy and legal issues will be considered fully and a balanced and informed view taken.
- If staff are unable to identify the legal status of a substance / drug, it should be treated as a controlled drug
- If a substance is confiscated / seized do not retain the substance on your person or in a place of safekeeping for a later time as this may place you at risk of committing an offence
- Records will be made of the time, place and circumstances of the discovery and also the details of what was found, but do not investigate the substance
- When taking temporary possession of suspected controlled drugs or harmful substances, the confiscated sample will be sealed in a plastic bag and appropriately labelled and stored in a secure location (safe or lockable container) with access limited to senior staff. Police will then be notified and requested to support school and the disposal of the confiscated substance. School will document the Police Log number
- A decision will be taken on informing parents / carers, unless this is not in the best interest of the pupil at that point.
- Where drug related paraphernalia, such as needles and syringes are discovered, do not attempt to handle this. It should be collected by the appropriate personnel in accordance with health and safety guidelines. The Head Teacher must ensure that materials are placed in a secure container to await proper collection
- No entry of an incident should be made on the pupil's record until the suspected substance is confirmed by the police as being a controlled or illegal substance. If the substance is not a controlled substance, the entry on the pupil's record will be determined by the Head Teacher
- Where a substance is confirmed as being controlled, it is the responsibility of the Head Teacher or nominated member of staff (usually the Child Protection Coordinator / Student Support Team Manager) to notify the parents/carers concerned, and if necessary, to consider further action including notifying the Chair of Governors.
- In the circumstances where it is possible that the school premises are being used for illegal drug use, all reasonable steps must be taken to prevent this, in order to avoid contravening the law. All concerns identified in relation to substance misuse should be regarded as a potential Safeguarding / Child Protection issue and reported in line with the HSLC Child Protection Policy and procedures

Working with the Police

The school will work in partnership with the police to the benefit of the school and the wider community. The school is able to seek assistance from the local policing team who will give guidance on the law, the identification and disposal of substances and whether or not the police should be more actively and formally involved in a given situation. Information will be shared with Police as appropriate to ensure the school observes moral and legal responsibilities and its overall 'duty of care'. The school will consider very carefully the implications of any action it may take

It will seek to balance the interests of the pupil involved, the other school members and the local community

Factors to be considered will include the age of the pupil, whether the incident involved one pupil or a group and whether peer pressure is evident

The fact that certain behaviour could constitute a violation of the criminal law will not in itself necessarily lead to a more punitive response

In all cases the school will ensure that the pupil has access to professional support and advice from the relevant services and agencies.

Responsibility for managing misuse incidents drug issues lies with the Designated Safeguarding Lead, Kay Sullivan and Deputy Designated Safeguarding Lead Emma Webster or any member of the Senior Leadership Team.

Prescribed Medicines

Some pupils may require medicines that have been prescribed for use during the school day. In these cases, the school's policy for the transportation, storage and dispensing of such medicines MUST be followed (please see HSLC Supporting Medical Conditions and Medication Policy)

Drug Education

The aim of the school's drug education programme (delivered within the Life Studies / PSHE curriculum) is to provide opportunities for pupils to develop their knowledge, attitudes and understanding about drugs. Pupils will also be encouraged to appreciate the benefits of a healthy lifestyle relating to their own and others actions.

Aims of the school drug education programme:

- To increase knowledge and understanding of drugs and their effects by providing accurate information
- To improve self-knowledge, particularly in terms of risk taking and harm minimisation
- To promote positive attitudes towards healthy lifestyles; to challenge and try to modify these when they may lead to behaviour harmful to health
- To promote a sense of responsibility towards the use of drugs
- To develop social skills such as making informed choices and resisting unhelpful pressures from peers
- To enable young people to identify sources of appropriate support
- To widen understanding about related health and social issues such as sexual health and crime

The programme will reflect the views and needs of pupils so that it is age/needs appropriate. It will be based on the requirements of the national curriculum and in part, will be delivered within a whole school approach through well planned PSHE.

The teaching of drug education will:

- Provide opportunities for active learning
- Give accurate and unbiased information
- Allow for the expression and consideration of a range of attitudes and values
- Offer opportunities for discussion and reflection

Partner Agencies

We recognise that outside educators can make a valuable contribution to the programme. They must be familiar with and support relevant aspects of school policy and contribute to the programme as negotiated and agreed with the school staff.

Confidentiality

In managing drugs, and in lessons involving education about drugs, school staff cannot and **MUST** not promise total confidentiality. Safeguarding issues and responsibilities remain paramount due to the high potential risk associated with the misuse of substances. The boundaries of confidentiality will be made clear to pupils in line with the school's policies and procedures. School staff will ensure every effort is made to seek the agreement of the pupil prior to a situation where information has to be shared. Where information does have to be shared, this will be on a need-to-know basis only and in the best interests of the pupil and school community

Useful Organisations

School Student Support staff will support and provide help and guidance to signpost to sources of advice and support

Safeguarding and Partnership Hub – 01482 395500 - can signpost to substance misuse and counselling services.

Addaction is one of the UK's largest specialist drug and alcohol treatment charities. As well as adult services, they provide services specifically tailored to the needs of young people and their parents. The Skills for Life project supports young people with drug misusing parents.

Website: www.addaction.org.uk

Alcohol Concern works to reduce the incidence and costs of alcohol-related harm and to increase the range and quality of services available to people with alcohol-related problems

Tel: 020 7264 0510. Email: contact@alcoholconcern.org.uk Website:

www.alcoholconcern.org.uk

ASH (Action on Smoking and Health) A campaigning public health charity aiming to reduce the health problems caused by tobacco. Tel: 020 7739 5902 Email: enquiries@ash.org.uk

Website: www.ash.org.uk

Drinkaware - An independent charity that promotes responsible drinking through innovative ways to challenge the national drinking culture, helping reduce alcohol misuse and minimise alcohol related harm. Tel: 020 7307 7450 Website: www.drinkaware.co.uk/

Drinkline - A free and confidential helpline for anyone who is concerned about their own or someone else's drinking. Tel: 0800 917 8282 (lines are open 24 hours a day)

FRANK is the national drugs awareness campaign aiming to raise awareness amongst young people of the risks of illegal drugs, and to provide information and advice. It also provides support to parents/carers, helping to give them the skills and confidence to communicate with their children about drugs. 24 Hour Helpline: 0800 776600 Email: frank@talktofrank.com

Website: www.talktofrank.com

Mentor UK is a non-government organisation with a focus on protecting the health and wellbeing of children and young people to reduce the damage that drugs can do to their lives.

Tel: 020 7739 8494. Email admin@mentoruk.org Website: www.mentoruk.org.uk

National Children's Bureau promotes the interests and well-being of all children and young people across every aspect of their lives. Tel: 020 7843 6000 Website: www.ncb.org.uk

Family Lives - A charity offering support and information to anyone parenting a child or teenager. It runs a free-phone helpline and courses for parents, and develops innovative projects. Tel: 0800 800 2222 Website: <http://familylives.org.uk/>

Re-Solv (Society for the Prevention of Solvent and Volatile Substance Abuse) A national charity providing information for teachers, other professionals, parents and young people. Tel: 01785 817885 Information line: 01785 810762 Email: information@re-solv.org Website: www.re-solv.org

Smokefree - NHS Smoking Helpline: 0800 169 0 169 Website: <http://smokefree.nhs.uk>

Appendix 1 - Search, screening and confiscation: Advice for headteachers, school staff and governing bodies (January 2018)

Searching, screening and confiscation

**Advice for headteachers, school staff and
governing bodies
January 2018**

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Summary

About this departmental advice

This advice is intended to explain schools' powers of screening and searching pupils so that school staff have the confidence to use them. In particular, it explains the use of the power to search pupils without consent. It also explains the powers schools have to seize and then confiscate items found during a search. It includes statutory guidance which schools must have regard to.

Expiry or review date

This advice will be kept under review and updated as necessary.

Who is this advice for?

This advice is for:

- School leaders and school staff in **all** schools in England.
- For the purposes of this advice references to "maintained school" means a community, foundation or voluntary school, community or foundation special school. It also means Pupil Referral Units and non-maintained special schools.
- For the purpose of this advice references to "Academy" means Academy schools (including mainstream free schools) and Alternative Provision (AP) Academies (including AP free schools).
- Where particular provisions do not apply to a particular type of school we make this clear.

Key points

Searching

- School staff can search a pupil for any item if the pupil agrees.¹

- Headteachers and staff authorised by them have a statutory power to search pupils or their possessions, without consent, where they have reasonable grounds for suspecting that the pupil may have a prohibited item. Prohibited items are:

¹ The ability to give consent may be influenced by the child's age or other factors

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- knives or weapons
- alcohol
- illegal drugs
- stolen items
- tobacco and cigarette papers
- fireworks
- pornographic images
- any article that the member of staff reasonably suspects has been, or is likely to be, used:
 - to commit an offence, or
 - to cause personal injury to, or damage to the property of, any person (including the pupil).
- Headteachers and authorised staff can also search for any item banned by the school rules which has been identified in the rules as an item which may be searched for.

Confiscation

- School staff can seize any prohibited item found as a result of a search. They can also seize any item, they consider harmful or detrimental to school discipline.

Schools' obligations under the European Convention on Human Rights (ECHR)

- Under article 8 of the European Convention on Human Rights pupils have a right to respect for their private life. In the context of these particular powers, this means that pupils have the right to expect a reasonable level of personal privacy.
- The right under Article 8 is not absolute, it can be interfered with but any interference with this right by a school (or any public body) must be justified and proportionate.
- The powers to search in the Education Act 1996 are compatible with Article 8. A school exercising those powers lawfully should have no difficulty in demonstrating that it has also acted in accordance with Article 8. This advice will assist schools in deciding how to exercise the searching powers in a lawful way.

Screening

What the law allows:

- Schools can require pupils to undergo screening by a walk-through or hand-held metal detector (arch or wand) even if they do not suspect them of having a weapon and without the consent of the pupils.
- Schools' statutory power to make rules on pupil behaviour² and their duty as an employer to manage the safety of staff, pupils and visitors³ enables them to impose a requirement that pupils undergo screening.
- Any member of school staff can screen pupils.

² Section 89 of the Education and Inspections Act 2006 for all maintained schools, PRUs and NMSS and the Education (Independent School Standards) (England) Regulations 2010 for academy schools and alternative provision academies

³ Section 3 of the Health and Safety at Work etc. Act 1974

Also note:

- If a pupil refuses to be screened, the school may refuse to have the pupil on the premises. Health and safety legislation requires a school to be managed in a way which does not expose pupils or staff to risks to their health and safety and this would include making reasonable rules as a condition of admittance.
- If a pupil fails to comply, and the school does not let the pupil in, the school has not excluded the pupil and the pupil's absence should be treated as unauthorised. The pupil should comply with the rules and attend.
- This type of screening, without physical contact, is not subject to the same conditions as apply to the powers to search without consent.

Searching with consent

Schools' common law powers to search:

- School staff can search pupils with their consent for any item.

Also note:

- Schools are not required to have formal written consent from the pupil for this sort of search – it is enough for the teacher to ask the pupil to turn out his or her pockets or if the teacher can look in the pupil's bag or locker and for the pupil to agree.
- Schools should make clear in their school behaviour policy and in communications to parents and pupils what items are banned.
- If a member of staff suspects a pupil has a banned item in his/her possession, they can instruct the pupil to turn out his or her pockets or bag and if the pupil refuses, the teacher can apply an appropriate punishment as set out in the school's behaviour policy.
- A pupil refusing to co-operate with such a search raises the same kind of issues as where a pupil refuses to stay in a detention or refuses to stop any other unacceptable behaviour when instructed by a member of staff – in such circumstances, schools can apply an appropriate disciplinary penalty.

Searching without consent

What the law says:

What can be searched for?

- Knives or weapons, alcohol, illegal drugs and stolen items; and
- Tobacco and cigarette papers, fireworks and pornographic images; and
- Any article that the member of staff reasonably suspects has been, or is likely to be, used to commit an offence, or to cause personal injury, or damage to property; and
- Any item banned by the school rules which has been identified in the rules as an item which may be searched for.

1. Can I search?

- Yes, if you are a headteacher or a member of school staff and authorised by the headteacher.

2. Under what circumstances?

- You must be the same sex as the pupil being searched; and there must be a witness (also a staff member) and, if possible, they should be the same sex as the pupil being searched.
- There is a limited exception to this rule. You can carry out a search of a pupil of the opposite sex to you and / or without a witness present, but only where you reasonably believe that there is a risk that serious harm will be caused to a person if you do not conduct the search immediately and where it is not reasonably practicable to summon another member of staff.

3. When can I search?

- If you have reasonable grounds for suspecting that a pupil is in possession of a prohibited item.

Also note:

- The law also says what must be done with prohibited items which are seized following a search.
- The requirement that the searcher is the same sex as the pupil and that a witness is present will continue to apply in nearly all searches. Where it is practicable to

summon a staff member of the same sex as the pupil and a witness then the teachers wishing to conduct a search must do so.

4. Authorising members of staff

- Headteachers should decide who to authorise to use these powers. There is no requirement to provide authorisation in writing.
- Staff, other than security staff, can refuse to undertake a search. The law states that headteachers may not require anyone other than a member of the school security staff to undertake a search.
- Staff can be authorised to search for some items but not others; for example, a member of staff could be authorised to search for stolen property, but not for weapons or knives.
- A headteacher can require a member of the school's security staff to undertake a search.
- If a security guard, who is not a member of the school staff, searches a pupil, the person witnessing the search should ideally be a permanent member of the school staff, as they are more likely to know the pupil.

5. Training for school staff

- When designating a member of staff to undertake searches under these powers, the headteacher should consider whether the member of staff requires any additional training to enable them to carry out their responsibilities.

6. Establishing grounds for a search

- Teachers can only undertake a search without consent if they have reasonable grounds for suspecting that a pupil may have in his or her possession a prohibited item. The teacher must decide in each particular case what constitutes reasonable grounds for suspicion. For example, they may have heard other pupils talking about the item or they might notice a pupil behaving in a way that causes them to suspect that the pupil is concealing a prohibited item.
- In the exceptional circumstances when it is necessary to conduct a search of a pupil of the opposite sex or in the absence of a witness, the member of staff conducting the search should bear in mind that a pupil's expectation of privacy increases, as they get older.
- The powers allow school staff to search regardless of whether the pupil is found after the search to have that item. This includes circumstances where staff suspect

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a pupil of having items such as illegal drugs or stolen property which are later found not to be illegal or stolen.

- School staff may wish to consider utilising CCTV footage in order to make a decision as to whether to conduct a search for an item.

7. Searches for items banned by the school rules

- An item banned by the school rules may only be searched for under these powers if it has been identified in the school rules as an item that can be searched for.
- The school rules must be determined and publicised by the headteacher in accordance with section 89 of the Education and Inspections Act 2006 in maintained schools. In the case of academy schools and alternative provision academies, the school rules must be determined in accordance with the School Behaviour (Determination and Publicising of Measures in Academies) Regulations 2012. Separate advice on school rules is available in 'Behaviour and Discipline – advice for headteachers and school staff' via the link under Associated Resources.
- Under section 89 and the School Behaviour (Determination and Publicising of Measures in Academies) Regulations 2012 the headteacher must publicise the school behaviour policy, in writing, to staff, parents and pupils at least once a year.

8. Location of a search

- Searches without consent can only be carried out on the school premises or, if elsewhere, where the member of staff has lawful control or charge of the pupil, for example on school trips in England or in training settings.
- The powers only apply in England.

During the search

9. Extent of the search – clothes, possessions, desks and lockers

What the law says:

- The person conducting the search may not require the pupil to remove any clothing other than outer clothing.
- ‘Outer clothing’ means clothing that is not worn next to the skin or immediately over a garment that is being worn as underwear but ‘outer clothing’ includes hats; shoes; boots; gloves and scarves.
- ‘Possessions’ means any goods over which the pupil has or appears to have control – this includes desks, lockers and bags.
- A pupil’s possessions can only be searched in the presence of the pupil and another member of staff, except where there is a risk that serious harm will be caused to a person if the search is not conducted immediately and where it is not reasonably practicable to summon another member of staff.

Also note:

- The power to search without consent enables a personal search, involving removal of outer clothing and searching of pockets; but not an intimate search going further than that, which only a person with more extensive powers (e.g. a police officer) can do.

10. Lockers and desks

- Under common law powers, schools are able to search lockers and desks for any item provided the pupil agrees. Schools can also make it a condition of having a locker or desk that the pupil consents to have these searched for any item whether or not the pupil is present.
- If a pupil does not consent to a search (or withdraws consent having signed a consent form) then it is possible to conduct a search without consent but only for the “prohibited items” listed above.

11. Use of force

- Members of staff can use such force as is reasonable given the circumstances when conducting a search for knives or weapons, alcohol, illegal drugs, stolen items, tobacco and cigarette papers, fireworks, pornographic images or articles that have been or could be used to commit an offence or cause harm. Such force cannot be used to search for items banned under the school rules.
- Separate advice is available on teachers’ power to use force – see Associated Resources section below for a link to this document

After the search

12. The power to seize and confiscate items – general

What the law allows:

- Schools' general power to discipline, as circumscribed by Section 91 of the Education and Inspections Act 2006, enables a member of staff to confiscate, retain or dispose of a pupil's property as a disciplinary penalty, where reasonable to do so.

Also note:

- The member of staff can use their discretion to confiscate, retain and/or destroy any item found as a result of a 'with consent' search so long as it is reasonable in the circumstances. Where any article is reasonably suspected to be an offensive weapon, it must be passed to the police.
- Staff have a defence to any complaint or other action brought against them. The law protects members of staff from liability in any proceedings brought against them for any loss of, or damage to, any item they have confiscated, provided they acted lawfully.

13. Items found as a result of a 'without consent' search

What the law says:

- A person carrying out a search can seize anything they have reasonable grounds for suspecting is a prohibited item or is evidence in relation to an offence.
- Where a person conducting a search finds alcohol, they may retain or dispose of it. This means that schools can dispose of **alcohol** as they think appropriate but this should not include returning it to the pupil.
- Where they find **controlled drugs**, these must be delivered to the police as soon as possible but may be disposed of if the person thinks there is a good reason to do so.
- Where they find **other substances** which are not believed to be controlled drugs these can be confiscated where a teacher believes them to be harmful or detrimental to good order and discipline. This would include, for example, so called 'legal highs'. Where staff suspect a substance may be controlled they should treat them as controlled drugs as outlined above.
- Where they find **stolen items**, these must be delivered to the police as soon as reasonably practicable – but may be returned to the owner (or may be retained or

disposed of if returning them to their owner is not practicable) if the person thinks that there is a good reason to do so.

- Where a member of staff finds **tobacco or cigarette papers** they may retain or dispose of them. As with alcohol, this means that schools can dispose of tobacco or cigarette papers as they think appropriate but this should not include returning them to the pupil.
- **Fireworks** found as a result of a search may be retained or disposed of but should not be returned to the pupil.
- If a member of staff finds a **pornographic image**, they may dispose of the image unless they have reasonable grounds to suspect that its possession constitutes a specified offence (i.e. it is extreme or child pornography) in which case it must be delivered to the police as soon as reasonably practicable.
- Where an article that has been (or is likely to be) used to commit an offence or to cause personal injury or damage to property is found it may be delivered to the police or returned to the owner. It may also be retained or disposed of.
- Where a member of staff finds **an item which is banned under the school rules** they should take into account all relevant circumstances and use their professional judgement to decide whether to return it to its owner, retain it or dispose of it.
- Any **weapons or items which are evidence of an offence** must be passed to the police as soon as possible.

14. Statutory guidance on the disposal of controlled drugs and stolen items

- It is up to the teachers and staff authorised by them to decide whether there is a good reason not to deliver stolen items or controlled drugs to the police. In determining what is a “good reason” for not delivering controlled drugs or stolen items to the police the member of staff must have regard to the following guidance issued by the Secretary of State:
- In determining what is a ‘good reason’ for not delivering controlled drugs or stolen items to the police, the member of staff should take into account all relevant circumstances and use their professional judgement to determine whether they can safely dispose of a seized article.
- Where staff are unsure as to the legal status of a substance and have reason to believe it may be a controlled drug they should treat it as such.
- With regard to stolen items, it would not be reasonable or desirable to involve the police in dealing with low value items such as pencil cases. However, school staff

may judge it appropriate to contact the police if the items are valuable (iPods/laptops) or illegal (alcohol/fireworks).

15. Statutory guidance for dealing with electronic devices

- Where the person conducting the search finds an electronic device that is prohibited by the school rules or that they reasonably suspects has been, or is likely to be, used to commit an offence or cause personal injury or damage to property, they may examine any data or files on the device where there is a good reason to do so. They may also delete data or files if they think there is a good reason to do so, unless they are going to give the device to the police. This power applies to all schools and there is no need to have parental consent to search through a young person's mobile phone if it has been seized in a lawful 'without consent' search and is prohibited by the school rules or is reasonably suspected of being, or being likely to be, used to commit an offence or cause personal injury or damage to property.
- The member of staff must have regard to the following guidance issued by the Secretary of State when determining what is a "good reason" for examining or erasing the contents of an electronic device:
 - In determining a 'good reason' to examine or erase the data or files the staff member should reasonably suspect that the data or file on the device in question has been, or could be, used to cause harm, to disrupt teaching or break the school rules.
 - If an electronic device that is prohibited by the school rules has been seized and the member of staff has reasonable grounds to suspect that it contains evidence in relation to an offence, they must give the device to the police as soon as it is reasonably practicable. Material on the device that is suspected to be evidence relevant to an offence, or that is a pornographic image of a child or an extreme pornographic image, should not be deleted prior to giving the device to the police.⁴
 - If a staff member does not find any material that they suspect is evidence in relation to an offence, and decides not to give the device to the police, they can decide whether it is appropriate to delete any files or data from the device or to retain the device as evidence of a breach of school discipline.
 - All school staff should be aware that behaviours linked to sexting put a child in danger. Governing bodies should ensure sexting and the school's approach to it is reflected in the child protection policy. The UK Council for Child Internet Safety

⁴ Section 62 of the Coroners and Justice Act 2009 defines prohibited images of children. Section 63 of the Criminal Justice and Immigrations Act 2008 defines extreme pornographic images.

(UKCCIS) Education Group has recently published the advice - sexting in schools and colleges - responding to incidents and safeguarding young people

Also note:

- Teachers should also take account of any additional guidance and procedures on the retention and disposal of items that have been put in place by the school.

16. Telling parents and dealing with complaints

- Schools are not required to inform parents before a search takes place or to seek their consent to search their child.
- There is no legal requirement to make or keep a record of a search.
- Schools should inform the individual pupil's parents or guardians where alcohol, illegal drugs or potentially harmful substances are found, though there is no legal requirement to do so.
- Complaints about screening or searching should be dealt with through the normal school complaints procedure.

Further sources of information

Associated resources (external links)

- Use of Reasonable Force - advice for headteachers, staff and governing bodies Behaviour and Discipline in Schools
- Behaviour and Discipline in Schools - advice for head teachers and school staff
- Information Commissioner for advice on the Data Protection Act
- Keeping children safe in education statutory guidance for schools and colleges
- UK Council for Child Internet Safety- UKCCIS Sexting in schools and colleges - responding to incidents and safeguarding young people

Legislative links

- The Education Act 1996
- Education and Inspections Act 2006
- Education (Independent School Standards) (England) Regulations 2010
- The Schools (Specification and Disposal of Articles) Regulations 2012
- School Behaviour (Determination and Publicising of Measures in Academies) Regulations 2012
- Health and Safety at Work etc Act 1974

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