



# **The Castle School**

ACHIEVE | BELONG | PARTICIPATE

## **Drugs Incident Policy**

**Date: February 2022**

Headteacher: James Lamb

Due for review: Spring Term 2024

## **PURPOSE**

- To provide a framework that is supportive of the prevention of the misuse of illegal drugs and alcohol.
- To provide clear guidelines on procedures to be followed when tobacco, alcohol, solvents or illegal drugs have been misused on the school site.
- To provide guidelines concerning support that may be put in place for students misusing tobacco, alcohol, solvents or illegal drugs.

## **KEY POINTS**

This policy should be operated in conjunction with the policies on Drugs Education, Safeguarding and Behaviour.

This policy is also supported by the DfE and ACPO drug advice for schools Advice for local authorities, headteachers, school staff and governing bodies - September 2012 ([https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/270169/drug\\_advice\\_for\\_schools.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/270169/drug_advice_for_schools.pdf))

## **Introduction**

The misuse of illegal drugs and other substances is a matter of concern both within the school and at a national level.

It is important to have a common policy for dealing with those who misuse drugs on the school sites.

For the purpose of this policy a drug is defined as a chemical substance which will alter the way the mind and/or the body works.

It is concerned with the misuse of:

- Illegal drugs;
- Substances such as solvents;
- Tobacco and alcohol;
- Anything the school deems to be inappropriate.

The school is committed to a comprehensive programme of drug education.

Details of this programme can be found in the school's Drug Education Policy.

## **Procedures**

### **Alcohol, Solvents and Illegal Drugs**

There are standard procedures for when the school becomes aware of drug abuse.

Students involved in solvent abuse, alcohol and/or the use of illegal drugs should be brought to the Headteacher or other member of the School Leadership Team.

In the case of illegal drugs, procedures are laid down but may vary depending upon circumstances. In all situations, the staff making the discovery will complete a written report.

### **Tobacco**

Students are not permitted to smoke, possess cigarettes or tobacco products on the school sites or on the way to or from school. This includes any smoking related paraphernalia, including e-cigarettes and vaporisers. All cases will be referred to the appropriate Pastoral Lead.

### **Alcohol**

Alcohol must not be brought to, or drunk on, the school sites by students. Students must not appear on the school sites under the influence of alcohol.

### **Solvents**

Solvents, all aerosol sprays and solvent based correction fluids are prohibited on the school sites. The use of such in Art and/or Design Technology will be carefully monitored.

### **Illegal Drugs**

Students are not permitted to possess, supply or use illegal drugs on the school sites, or on the way to or from school. Any incidents involving drugs will immediately be referred to the Headteacher or other member of the School Leadership Team.

Students who have concerns about drugs will be made aware of the help available through outside agencies.

If students admit to possession and/or use of illegal substances in or on the way to or from school then this must be reported to the Headteacher or other member of the School Leadership Team who will normally inform parents.

### **Legal Highs**

Legal highs must not be brought to, or used on, the school sites. Students must not appear on the school sites under the influence of legal highs.

## **Standard Procedures**

### **For Tobacco**

The student will be reported to the Pastoral Lead who will deal with the situation.

Students smoking or in possession of tobacco will be dealt with in the following manner:

- (1) They will be given advice and guidance, including the opportunity to attend a smoking cessation course.
- (2) The offending items will be confiscated.
- (3) An attempt will be made to establish the source of supply. This information will be acted upon.
- (4) The appropriate sanction according to the school's Behaviour Policy will be given.
- (5) Parents will be informed.

### **For Alcohol**

The student will be reported to the Headteacher or other member of the School Leadership Team who will deal with the situation.

Students drinking alcohol on the school site will be dealt with in the following manner:

- (1) It will be established if the student is in danger from the consumption of alcohol. If so, the teacher in-charge will take the appropriate action including seeking medical help and other staff help.
- (2) Any remaining alcohol will be taken from them.
- (3) Parents will be contacted immediately and asked to collect the child from school with a view to supporting the safety of the student. An apparently intoxicated student or one smelling of alcoholic drink should not remain in contact with other students.
- (4) Every step will be taken to establish if the student has an ongoing problem with alcohol consumption and needs help from outside agencies. They will be given advice and guidance, including the opportunity to link with external agencies.
- (5) The student will not be allowed back into school until sober and in the company of her/his parent(s), normally following a one day fixed term suspension. She/he will be expected to attend a reintegration meeting with the Headteacher or other member of the School Leadership Team before being re-admitted.
- (6) The student and parents will be warned that a repeat of such behaviour may result in further suspension from school.
- (7) An attempt will be made to establish the source of supply. This information will be acted upon.
- (8) A report of the incident will be completed.

Students found with alcohol on the school sites will be dealt with in the following way:

- (1) The alcohol will be removed from the student.
- (2) Parents will be contacted and informed and asked to remove the alcohol from the premises.
- (3) The appropriate sanction according to the Behaviour Policy will be given, mostly likely a fixed term suspension.
- (4) A strong warning will be given and students and parents informed that a repeat could result in further suspension.
- (5) An attempt will be made to establish the source of supply. The information will be acted upon.
- (6) A report of the incident will be completed.

If either of the two above incidents occur on a school trip abroad, parents will be contacted on return to the UK and the previous procedures followed.

In the case of serious alcohol abuse parents may well be contacted immediately at the discretion of the party leader.

#### For Solvent Abuse

THE STUDENT WILL BE KEPT CALM AND UNDER SUPERVISION FOR 30 MINUTES. SLT WILL BE IMMEDIATELY INFORMED.

UNDER NO CIRCUMSTANCES WILL THE STUDENT BE LEFT ON HIS/HER OWN.

- (1) It will be established quickly if the student is in any danger, if so emergency agencies should be contacted. The substance should be removed from the student.
- (2) The parent will be contacted immediately and the student removed from the school for the remainder of the day with a view to supporting the safety of the student. Students under the influence of solvents will not mix with others. Whilst awaiting the arrival of parents, a careful watch must be kept on the student in case she/he becomes unconscious or develop other signs of intoxication.
- (3) Re-admittance will take place only after interview involving the student, parent(s) and the Headteacher or other member of the School Leadership Team normally following a suspension.
- (4) The student will be counselled on the dangers and effects of substance abuse and help will be sought for them, including the opportunity to link with external agencies. It will also be established if any of his/her friends are involved. Involving outside agencies for counselling will be considered.
- (5) A repeat may result in further suspension.
- (6) An attempt will be made to establish the source of supply. The information will be acted upon.
- (7) A report of the incident will be completed.

Students found with solvent on the school sites will be dealt within the same way as those found with alcohol.

#### For Use/possession of Illegal Drugs

IF THERE IS ANY DOUBT AS TO THE NATURE OF THE SUBSTANCE THIS PROCEDURE WILL BE FOLLOWED. THE STUDENT WILL IMMEDIATELY BE BROUGHT TO A MEMBER OF THE SLT OR

**KEPT CALM UNDER SUPERVISION AND SLT INFORMED IMMEDIATELY. UNDER NO CIRCUMSTANCES WILL THE STUDENT BE LEFT ON HIS/HER OWN.**

- (1) If the substance is in the possession of one or more students, the member of staff will remove it, if to do so is within the bounds of professional discretion. Wherever possible there will be a witness present.
- (2) The student will be questioned concerning the nature and quantity of drug used. If they appear to be in danger appropriate action will be taken.
- (3) THE SUBSTANCE WILL BE TAKEN TO THE SCHOOL OFFICE WHERE THERE IS AN EVIDENCE BAG IN THE SAFE. THE SUBSTANCE WILL BE PLACED IN THE EVIDENCE BAG WITH THE SEAL SIGNED AND DATED. THE SUBSTANCE WILL BE KEPT IN THE SAFE UNTIL IT IS HANDED TO THE POLICE. THE SUBSTANCE WILL NOT BE RETAINED ON THE STAFF MEMBER'S PERSON.
- (4) Once the substance has been removed, the place, date and time when the substance came into the member of staff's possession will be recorded. If possible with the report being countersigned.
- (5) The parents of the student will normally be notified immediately.
- (6) As an offence may have been committed the Police will be informed of the circumstances. If the Police wish to interview the student, the relevant school will enable this to take place in the presence of the parent(s).
- (7) The substance will be handed to the Police for eventual disposal.
- (8) The relevant school will ask the parents to take the student home and the student will be suspended from school for a fixed period of time, possibly warranting a permanent exclusion

Re-admittance will involve an interview with student, parent(s) and Headteacher. It is hoped that, if necessary, the student will accept professional counselling from an outside organisation and that the parent(s) will support him/her in this. The student will also give an undertaking that such behaviour will not re-occur. Recurrence may result in permanent exclusion.

- (9) The student will be provided with support, including referral to an appropriate external agency.

IN CASE OF SUPPLYING OR USING ILLEGAL DRUGS ON THE SCHOOL SITE THE ABOVE PROCEDURE WILL BE FOLLOWED AND THE OFFENDING STUDENT(S) MAY BE PERMANENTLY EXCLUDED FROM SCHOOL.

**On Discovering Illegal Drugs**

- (1) If the substance is found on the school sites, not in the possession of students, the member of staff will remove it, if to do so is within the bounds of professional discretion. Wherever possible there will be a witness present.
- (2) THE SUBSTANCE WILL BE TAKEN TO THE SCHOOL OFFICE WHERE THERE IS AN EVIDENCE BAG IN THE SAFE. THE SUBSTANCE WILL BE PLACED IN THE EVIDENCE BAG WITH THE SEAL SIGNED AND DATED. THE SUBSTANCE WILL BE KEPT IN THE

SAFE UNTIL IT IS HANDED TO THE POLICE. THE SUBSTANCE WILL NOT BE RETAINED ON THE STAFF MEMBER'S PERSON.

- (3) Once the substance has been removed, the place, date and time when the substance came into the member of staff's possession will be recorded. If possible with the report being countersigned.
- (4) The Police will be informed and the substance handed to them.

For Use/possession of Illegal Drugs on a School Trip within the UK.

UNDER NO CIRCUMSTANCES WILL THE STUDENT BE LEFT ON HIS/HER OWN.

IF THERE IS ANY DOUBT AS TO THE NATURE OF THE SUBSTANCE THIS PROCEDURE WILL BE FOLLOWED:

- (1) If the substance is in the possession of one or more students, the member of staff will remove it, if to do so is within the bounds of professional discretion. Wherever possible there will be a witness present.
- (2) The student will be questioned concerning the nature and quantity of drug used. If they appear to be in danger appropriate action will be taken.
- (3) THE SUBSTANCE WILL BE PLACED IN A SEALED CONTAINER WITH THE SEAL SIGNED AND DATED. THE SUBSTANCE WILL BE KEPT IN A SECURE PLACE UNTIL IT IS HANDED TO THE POLICE.
- (4) Once the substance has been removed, the place, date and time when the substance came into the staff member's possession will be recorded. If possible with the report being countersigned.
- (5) If the trip is a day trip then the parent(s) of the student(s) will be notified immediately on return to school. If the trip is longer than one day the party leader, where possible, will contact the Headteacher in order to decide arrangements for the early return of the student.
- (6) As an offence may have been committed, the Police will be informed of the circumstances. If the Police wish to interview the student the relevant school will enable this to take place in the presence of the parent(s).
- (7) The substance will be handed to the Police for eventual disposal.
- (8) The relevant school will ask the parents to take the student home and the student will be suspended for a fixed period of time, possibly warranting a permanent exclusion.

Re-admittance will involve an interview with student, parent(s) and Headteacher. It is hoped that, if necessary, the student will accept professional counselling from an outside organisation and that the parent(s) support him/her in this. The student will also given an undertaking that such behaviour will not re-occur. A repeat may result in permanent exclusion.

- (9) The student will be provided with support, including referral to an appropriate external agency.



IN CASE OF SUPPLYING OR USING ILLEGAL DRUGS DURING A SCHOOL TRIP THE ABOVE PROCEDURE WILL BE FOLLOWED AND THE OFFENDING STUDENT(S) MAY BE PERMANENTLY EXCLUDED FROM SCHOOL.

For Use/possession of Illegal Drugs on a School Trip Abroad

UNDER NO CIRCUMSTANCES WILL THE STUDENT BE LEFT ON HIS/HER OWN IF UNDER THE INFLUENCE OF DRUGS.

IF THERE IS A DOUBT AS TO THE NATURE OF THE SUBSTANCE THIS PROCEDURE WILL BE FOLLOWED:

- (1) If the substance is in the possession of one or more students, the member of staff will remove it, if to do so is within the bounds of professional discretion. Wherever possible there will be a witness present.
- (2) The student(s) will be questioned concerning the nature and quantity of drug used and a decision made regarding their physical well-being. If they are in danger appropriate action will be taken.
- (3) Having removed the substance, the place, date and time when the substance came into the staff member's possession will be recorded. If possible with the report being countersigned.
- (4) The party leader, where possible, will contact the Headteacher who will then contact the parent(s). A decision regarding arrangements for the early return of the student will be made.
- (5) As an offence may have been committed the local police, in the country being visited, will be informed of the circumstances and the suspect substance handed to them. The legal system in the country being visited will decide what further legal action will result.
- (6) The student will be suspended for a fixed period of time. Re-admittance will involve an interview with student, parent(s) and Headteacher. It is hoped that, if necessary the student will accept professional counselling from an outside organisation and that the parent(s) agree to support him/her in this. The student will also give an undertaking that such behaviour will not re-occur. A repeat may result in permanent exclusion.

IN CASE OF SUPPLYING OR USING ILLEGAL DRUGS ON A SCHOOL TRIP THE ABOVE PROCEDURE WILL BE FOLLOWED AND THE OFFENDING STUDENT(S) MAY BE PERMANENTLY EXCLUDED FROM SCHOOL.

PARENTS OF STUDENTS VISITING FOREIGN COUNTRIES WITH THE SCHOOL WILL BE INFORMED OF THE POSSIBLE CONSEQUENCES OF THEIR CHILDREN USING OR POSSESSING ILLEGAL DRUGS ON THE SCHOOL TRIP.



Department  
for Education

# Searching, screening and confiscation

Advice for headteachers, school staff  
and governing bodies

January 2018

# Contents

Summary	3
About this departmental advice	3
Expiry or review date	3
Who is this advice for?	3
Key points	3
Searching	3
Confiscation	4
Schools' obligations under the European Convention on Human Rights (ECHR)	4
Screening	5
Searching with consent	6
Searching without consent	7
During the search	10
After the search	11
Further sources of information	15
Associated resources (external links)	15
Legislative links	15

# 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.<sup>1</sup>
- 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:

---

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

- 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 behaviour<sup>2</sup> and their duty as an employer to manage the safety of staff, pupils and visitors<sup>3</sup> enables them to impose a requirement that pupils undergo screening.

Any member of school staff can screen pupils.

## 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.

---

<sup>2</sup> Section 8 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

<sup>3</sup> Section 3 of the Health and Safety at Work etc. Act 1974

## 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

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 suspect 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.<sup>4</sup>
- 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

---

<sup>4</sup> Section 62 of the Coroners and Justice Act 2009 defines prohibited images of children. Section 63 of the Criminal Justice and Immigration 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](#)



© Crown copyright 2018

This publication (not including logos) is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

To view this licence:

visit [www.nationalarchives.gov.uk/doc/open-government-licence/version/3](http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3)  
email [psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk)  
write to Information Policy Team, The National Archives, Kew, London, TW9 4DU

About this publication:

enquiries [www.education.gov.uk/contactus](http://www.education.gov.uk/contactus) download  
[www.gov.uk/government/publications](http://www.gov.uk/government/publications)

Reference: DFE-00034-2014