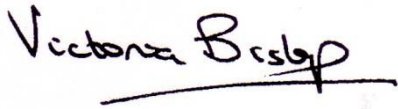




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|----------------------------|--|
| <b>Title</b>               | <b>Searching Pupils and Confiscating Pupils' Property Policy</b>                     |
| <b>Reviewed</b>            | <b>September 2018</b>  |
| <b>Next Review</b>         | <b>September 2021</b>  |
| <b>Associated Policies</b> | <b>Behaviour Policy<br/>Physical Force and Reasonable Restraint Policy</b>           |
| <b>Originator</b>          | <b>Clare Raku</b>  |
| <b>Approved</b>            |  |

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## 1. General

The *Education and Inspections Act 2006*, the *Violent Crime Reduction Act 2006* and *Apprenticeships, Skills, Children and Learning Act 2009* have given schools extra powers to screen and/or search pupils. These are in addition to the common law power to search pupils and confiscate items. These powers have been further extended under the *2011 Education Act*.

This policy provides guidance to staff on academy procedures and information on their legal position based upon their advice in 'Searching, Screening and Confiscation' January 2018.

In this policy the term 'Principal' includes the Principal, Head of School and Trust Senior Staff.

## 2. Aim:

To discover whether pupils have offensive knives and other offensive weapons and also drugs, alcohol, illegal drugs and stolen property in their possession after reasonable suspicion that they may have about them.

## 3. Searching pupils- Obligations Under the European Convention For Human Rights

- Under article 8 of the European Convention of Human Rights pupils have a right to respect 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.

Clothing, desks, lockers and bags are included in staff search powers. The pupil can only be asked to remove outer clothing i.e not worn immediately next to the skin. The search must take place in the presence of the pupil and at least one other member of staff, except in an emergency (see below).

Searches without consent can only take place for prohibited items.

For searches where the pupil gives consent this only needs to be by asking the pupil. Written consent is not needed. If pupils refuse consent then lack of compliance should be treated as with any other similar behavior.

#### **4. What staff look for in a search**

The 2011 Education Act Academy staff can search for any item if the pupil agrees.

Searches without consent can take place for any items prohibited in the Academy Behaviour Policy these include the following but may include other items in the academy behavior policy:

- Knives or weapons
- Alcohol
- Illegal drugs
- Pornographic images
- Stolen items
- Tobacco and cigarettes
- Fireworks

Any article likely to, or has been used to commit an offence.

Any item likely to cause personal injury or damage to property. Academy behavior policies should make it clear what items are banned. These should be communicated to parents.

Searches can only take place on academy premises or, if elsewhere, where the member of staff has lawful control or charge of the pupils e.g. on academy trips and visits and in a training setting

#### **5. Searching for Suspected Weapons and Drugs**

Following the *Education Act 2011* the Principal, and any member of the academy or trust authorised by the Principal, has the right to search a pupil for any article with the pupil's consent - or without their consent if the member of staff has reasonable grounds for believing that the student may have with him/her or in his/her possession, the following items:

- an article which has been or is likely to cause personal injury or damage;
- any other article likely to commit an offence, or to cause personal injury, or damage to the property of, any person including the student being searched;
- alcohol, drugs, stolen goods.

## 6. Academy Trust Procedures

### Suspected weapons or drugs:

Principals, Trust and Academy senior staff are empowered to search pupils on behalf of the Board of Directors. No member of staff is required to undertake a search but they are authorised to do so.

Staff who suspect that a pupil has a weapon or drugs should call for a senior member of staff. It is not advised that staff challenge pupils on their own unless there is an immediate threat to the safety of pupils and staff.

The Head of School/Senior Vice Principal will normally be present during a search which involves suspected weapons or drugs. If this is not possible another member of the senior staff may act on their behalf.

The Principal will ensure that the person carrying out the search is of the same sex as the student and the search must be carried out in the presence of another adult also the same sex as the student unless there is a clear and present danger and it is not reasonably practical to do so.

The student cannot be required to remove any clothing other than outer clothing and if the student's possessions are searched this must also be done in the presence of another adult.

The person carrying out the search is able to use ***such force as is reasonable*** in the circumstances for exercising that power.

The search should usually take place in the office of a senior member of staff and not in a public place within the academy.

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 the Trust policy on the use of force.

## 7. Searches without the consent of the pupil

Staff are authorized to undertake a search without the consent of the pupil if they have *reasonable grounds* for suspecting that a pupil may have in his or her possession a prohibited item. The member of staff should be the same sex as the pupil being searched and there must be a witness unless the situation is an emergency (see below).

*Reasonable grounds* means that there must be some evidence of an offence. For example: report made to staff by another pupil; hearing other pupils talking about the

item; noticing a pupil behaving in a way that causes them to be suspicious; CCTV evidence that arouses suspicion.

If the pupil refuses to comply with the search, they should be detained if possible and the police called. The police have powers to remove pupils. Staff should not put themselves in a position that threatens their safety. Pupils being aggressive should be allowed to leave and the Principal informed. This will then be followed up with the police and/or using the academy's behavior policy.

The power to search without consent enables a personal search, involving removal of outer clothing and searching pockets. Staff must involve a police officer for a more intimate search.

## 8. Informing and involving the police

The Violent Crime Reduction Act 2006 obliges the academy to inform the police if a search reveals 'evidence in relation to an offence'. The member of staff leading the search is required to inform the police if weapons, drugs, stolen goods or pornographic images if the staff member considers they may constitute an offence are found. This should be through the Community Police Officer in the first instance unless the Principal considers another police department should be called.

Illegal drugs and weapons should be handed to the police as soon as possible, if staff are unsure of the legal status of the substance then it should be treated as a controlled substance and referred to the police.

## 9. Emergency situations

A pupil's possessions may only be searched without a second member of staff present where an authorised member of staff **reasonably** believes that there is a risk that **serious** harm will be caused to a person if the search is not carried out **urgently and it is not reasonably practicable** for the search to be carried out by a member of staff of the same sex or for a witness to be present. This is a reserve power and staff should be clear that they should not use it except when there is a clear risk to life or of serious injury.

9.2 In such an emergency situation all teaching staff and pastoral support staff are authorized to undertake a search

## 10. Recording the search and actions taken

The results of all searches for suspected weapons or drugs will be formally recorded (Appendix 1). It is advised that the witness to the search completes the pro-forma.

### 10.1 Other searches e.g. pornographic images, tobacco, stolen goods, alcohol:

Members of staff who are not named in section 1 above, must not search pupils or their possessions for weapons or suspected drugs.

Pastoral support staff and teachers may, however, search pupils for other items, where they deem this is necessary. Examples include cigarettes, tobacco, mobile phones, fireworks, pornographic images.

The member of staff wishing to search the pupil or his/her possessions, must call another member of staff to be present throughout the search – even if this is only a search of the pupil's bag. The second member of staff must be of the same sex as the pupil.

Alcohol may be searched for under statutory powers but may not be permanently taken from a student over 16. This does not prevent the academy rules being enforced.

## **11. Electronic devices**

Members of staff can search data or files on electronic devices if they consider there is 'good reason' to do so.

'Good reason' is when a member of staff suspects that the data or file on the device in question has been, or could be, used to cause harm, to disrupt teaching, or to break academy rules.

Staff are advised to involve another member of staff in the decision on 'good reason' and record this on the academy trust pro-forma.

If inappropriate material is found on the device, staff should either:

- Delete that material
- Retain it as evidence if there is a breach of academy discipline or criminal offence
- Involve the police if the material is of a serious nature

Staff should be aware that behaviours linked to sexting put a child in danger. See the Trust Child Protection and E-Safety Policies.

## **12. Dealing with articles found in a search**

The Principal and authorised members of staff making searches may seize prohibited articles.

Where the article is an item used in the commission of any offence or to cause personal injury or damage to property the Head of School/Senior Vice Principal must determine whether to:

- deliver the item to a police constable as soon as reasonably practicable;
- return the item to the owner;
- retain the item; or

- dispose of the item.

Where an article has been found for which a search may be made under academy rules the Principal may:

- return the item to the owner; within 5 school days
- retain it' or
- dispose of it.

Where the confiscated article is a prohibited electronic article the staff member who seized the item may examine any data or files on the device if the person thinks there is good reason for doing so.

Following the examination the staff member seizing the article may erase the data or files if the person thinks there is a good reason to do so. This should normally be in consultation with the Principal or other senior member of staff.

In considering the above courses of action the academy must have regard to any guidance issued by the Secretary of State.

### **13. Recording searches**

A record of all searches will be kept by the Head of School/Senior Vice Principal using the Hatton Academies Trust pro-forma (Appendix 1).

Each entry must be signed and also witnessed by the second member of staff present at a search.

### **14. Telling parents and carers, and dealing with complaints**

The academy is not required to inform parents before a search takes place or to seek their consent.

The individual pupil's parents or carers should be informed where alcohol, illegal drugs or potentially harmful substances are found, though there is no legal requirement to do so. However, if the police have been involved it is advised that this occurs only after consultation with the police.

Complaints about searching should be dealt with through the normal academy trust complaints procedure.

### **15. Confiscated Items**

Knives and other offensive weapons, illegal substances or images will be handed to the police.

Tobacco, alcohol, fireworks and pornographic images not linked to a specified offence e.g. child pornography will be destroyed under orders from the Principal



Other items will normally be returned to the pupil at the end of the school day. The Principal is empowered to retain any item until a parent collects it. Such action must be recorded.

Confiscated items, which have not been collected after six months, will be disposed of under the direction of the Principal.

### **16. Responsibilities**

The Principal will ensure that this policy on searching and confiscation of possessions is brought to the notice of parents and carers.

The Principal is responsible for informing staff, parents/carers, and pupils of the policy, and how the policy will be put into action.

The Principal is responsible for informing the CEO.

No members of staff may be directed by the Principal or other senior member of staff to search pupils. They can only be authorized to do so.

### **17. Training for Staff**

The Principal will ensure that this policy is brought to the attention of all staff and they know how to implement the policy.

### **18. Monitoring and review**

This policy will be monitored through reports to the CEO.

The policy will be reviewed bi-annually or earlier if appropriate e.g. due to a change of legislation or advice from the Secretary of State for Education.

## Appendix 1.

### Log of Incident involving the search of a pupil

|   |       |           |
|---|-------|-----------|
| Academy:  | Date: | Time:     |
| Pupil searched  |       | Form/Year |
| Adults present at the search  |       |           |
| Other pupils involved/present   |       |           |
| Incident leading to the search and items being searched for               |       |           |
| Pupil response to the search/behavior and what was said during the search |       |           |
| Details of any injury/damage to property                                  |       |           |
| Police: if involved give details of officers attending and response       |       |           |
| Details of property seized  |       |           |
| Detail of property disposal/return  |       |           |

## Appendix 2. Searching Pupils - Summary of Actions for Academy Staff

