



SCREENING AND SEARCHING OF PUPILS FOR WEAPONS: GUIDANCE FOR SCHOOL STAFF

This guidance has been developed by Haringey Local Safeguarding Children Board. It replaces the previous LSCB Joint Protocol 'Protecting Children from Violent Crime' and is based on the then DfES guidance, 'Screening and Searching Pupils for Weapons'. It will assist schools with understanding:

- [a] the power to screen pupils for weapons without suspicion;
and
- [b] the statutory power¹ (it is not a legal duty) for head teachers, and staff they authorise, to search pupils without consent, when they have reasonable grounds for suspecting that a pupil has a knife or other weapon. They can search a pupil on school premises or anywhere else where pupils are under the charge of the member of staff conducting the search, such as during an off-site educational visit. When school staff decide to conduct a search under this power, they *must* comply with conditions specified in the statutory power.

The guidance is primarily aimed at all maintained schools, including pupil referral units, and will help other schools, including independent schools, when they consider whether or not to screen pupils or to use the new search power, or both. It will also help schools to comply with the law and follow good practice if they decide to search pupils on suspicion and without consent.

Further Education

While all Further Education (FE) institutions are private sector bodies, with more discretion than most schools have over how they manage students and safety, this guidance should also be of use to staff at FE institutions. FE staff have a statutory power² similar to the school power,

¹Section 550AA, Education Act 1996: inserted by Section 45, Violent Crime Reduction Act 2006: comes into force on 31 May 2007.

²Section 85B, Further and Higher Education Act 1992: inserted by section 46, Violent

to search, with reasonable grounds for suspicion and without consent, students at the institution. This includes pupils from a school receiving some of their compulsory education at an FE institution. An FE institution can also make it a condition of enrolment for students over compulsory school age that they consent to being searched, with or without suspicion.

Similarly, although pupils over compulsory school age in school sixth forms can be searched on suspicion and without consent, a school can also make consent to being searched – with or without suspicion – a condition of enrolment for its sixth-formers.

1. Summary of Screening and Searching Powers

Screening

School rules can require pupils to undergo random screening for weapons without suspicion as part of the school's disciplinary power and the duty to manage risk.

Searching with consent

Schools may search pupils who have consented to be searched, but we recommend that the constraints required by law for no-consent searches, and good practice on them, should be followed on with-consent searches.

Searching without consent - a statutory power, not a Duty

(Safety advice - reminder: No-one should be authorised to do a search before being trained. The power to search should be used only where it is judged safe. If the school decide it is unsafe to search, they should call the police.)

A **head teacher** can conduct a weapons search without consent where there are reasonable grounds to suspect the possession of a weapon. Other school staff must be authorised by the head teacher before they can do so.

Authorised staff. A head teacher can search in the presence of another member of staff; and can authorise other staff to search in general, or for a particular search or type of search, in the presence of another member of staff. A head teacher may not direct a member of staff to carry out a search, except security staff.

Searchers must be same sex as searched. As well as the searcher, one other member of staff must be present at a search of a pupil and must be of the same sex as the pupil searched. When the pupil's possessions

are searched, the pupil and a second member of staff must be present, but the staff may be of either sex.

Suspicion. The searcher must have reasonable grounds for suspecting a pupil may be carrying a knife or other weapon. The search can take place on school premises or on a school visit. The searcher can seize anything he reasonably suspects is a weapon or evidence of an offence.

Clothing. The searcher can require the pupil to remove outer clothing. Where the pupil refuses to do so, the searcher can use reasonable force to remove, for example, an overcoat.

Force. The member of staff searching the pupil may use reasonable force.

Weapon Found. The searcher may confiscate a weapon or anything which he or she suspects is intended to be used as a weapon; and must pass it to the police as soon possible [the police have long-standing arrangements for dealing with such items]. Other evidence of an offence can also be seized and, if seized, must be passed to the police.

With Consent. The power to search without consent does not inhibit the school's power to search a pupil where the pupil consents.

Staff Defined. The law on without-consent search defines "a member of the staff of a school" to include teachers and anyone else authorised by the head teacher to have lawful control or charge of a pupil: this could include a security firm's employee.

2. GUIDANCE

2.1 Scope of powers

[a] No-contact or low-contact Screening

Schools can require pupils to undergo screening for weapons *without* suspicion and without consent, by a walk-through or hand-held metal detector (arch or wand) which is "no-contact" or "low-contact" - it does not involve "patting down", though it may involve minimal contact of the wand with the pupil's clothing. A requirement for such screening can be imposed under a school's statutory power to make rules on behaviour policy and the school employer's duties to manage the safety of staff, pupils and visitors.

Where a school decides that screening would be useful, we

recommend:

- occasional screening of randomly-selected pupils while on the premises – for example, a class or a year-group - should normally be enough to deter and prevent;
- screening all pupils on entry **only in exceptional circumstances** and/ or for limited periods.

If a pupil refuses to be screened, the school may refuse to have the pupil on the premises or on an off-site educational visit. The school has a statutory power to make reasonable rules as a condition of admission. If the pupil fails to comply, and the school does not let the pupil in, it is unauthorised absence: the school has not excluded the pupil. The pupil's duty is to comply with the rules, and attend. Any refusal to attend should be investigated by the welfare officer in the same way as any other unauthorised absence.

Non-contact screening is not subject to the same conditions as with-suspicion searches under the statutory power to search. Schools can screen in view of other pupils. Schools should still take care to conduct screening reasonably, and must ensure that staff are trained in the use of arches and wands. Authorisation of staff, required for no-consent searches, is not required for screening. Staff should require pupils to remove from their pockets, before screening, any metallic object that could cause a 'beep'.

Low-contact screening can also result in the need to search on suspicion and without consent. If a wand or arch "beeps", showing it has detected metal, after a pupil has initially said that no metallic objects remain in their pockets, then this detection might help the searcher to gain consent, cooperation, or surrender of the object.

[b] Without-consent search

The statutory power to search applies where there are reasonable grounds for suspecting that a pupil has with him or in his possessions any of the following:

- anything referred to in this guidance as a 'knife' – to be precise, any article which has a blade or is sharply pointed. The definition does not include a folding pocket knife other than one whose cutting edge exceeds three inches or one which is not readily foldable at all times (such as a locking knife). This definition is taken from section 139 of the Criminal Justice Act 1988;
- an object referred to in this guidance as an offensive weapon – to be precise, any article made or adapted to injure a person, or any article which is intended by the person carrying the article for such use by him or by another person. This is taken from section 1 of the

Prevention of Crime Act 1953. Three types of article are covered:

- a weapon made for causing injury, such as a gun;
- an article adapted for causing injury, such as a bottle broken deliberately for the purpose; and
- an article not made or adapted for causing injury but which the person who has it intends to be used for the purpose of causing injury, e.g. a baseball bat.

The power includes a power to search where there are reasonable grounds to suspect that a pupil is in innocent possession of a weapon. The power does not allow without-suspicion (whether random or blanket) searches, but see also the separate section in this guidance on “screening”.

Note: It is a criminal offence³ to have a knife or offensive weapon on school premises. It is a defence to be carrying one for an educational or other lawful purpose.

2.2 Role of school employer; school statement of policy

Managing Safety. School employers⁴ must ensure, so far as is reasonably practicable, the health and safety of pupils and staff in their schools; and head teachers of maintained schools must determine measures to ensure acceptable behaviour by pupils⁵. The employer’s main duties under workplace health and safety law are outlined in DfES guidance: *Health and Safety: Responsibilities and Powers*, which includes a section on training. The employer must provide guidance, training and policy on health and safety matters. For example, an employer could instruct a head teacher to direct authorised security staff to search pupils whenever the security staff have a reasonable suspicion of a weapon being carried.

School policy: If a head teacher plans to use the power to screen or the statutory power to search, the head teacher should take the views of, for example, the employer, governing body and staff. The school’s Profile should include relevant information about these school security measures in the narrative section about health and safety. The head teacher can present the information as a school policy which sits alongside, and complements, a school’s policies on

³ Section 139A, Criminal Justice Act 1988.

⁴ The employer is: the Local Authority in a community, community special, voluntary controlled, or maintained nursery school or pupil referral unit; the Governing Body in a foundation, foundation special or voluntary aided school; and usually the governing body or proprietor in an independent school.

⁵ Education and Inspections Act 2006, Section 89.

behaviour and on the use of force (a head teacher has the option of using powers to screen or search in support of measures to ensure acceptable behaviour by pupils). The policy should:

- remind pupils and parents that it is a criminal offence to have a knife or offensive weapon in school and that the penalties for a pupil on conviction can be severe ;
- include how, when a pupil is suspected of carrying a weapon but school staff choose in this particular instance to call the police instead of using the power to search, school staff will manage the pupil in order to keep other pupils and staff reasonably safe while the police are not present.

2.3 Options before a without-consent search

Schools normally should use the power of without-consent search only as a last resort if they have first exhausted other options:

- [a] the main way to persuade pupils not to carry a weapon is educating them in how to behave well, how to resolve conflicts without violence, and about the dangers as well as the illegality of, and penalties for, carrying a weapon, whether in school or elsewhere.
- [b] where staff suspect a pupil is carrying a weapon, they can seek to confirm or allay their suspicion by questioning the pupil;
- [c] if questioning confirms suspicion, staff should ask the pupil to surrender the weapon, reminding the pupil about key points of the school policy and school rules and that it is a criminal offence, with severe penalties, to carry a weapon in school. As from 12 February 2007 the penalty for carrying a knife or offensive weapon is up to 4 years imprisonment and/or a fine. Comparable youth penalties are based on, among other factors, carrying a knife being classified as a crime of medium seriousness.
- [d] If suspicion remains and the pupil does not surrender the weapon, staff should ask the pupil to consent to a search. In a with-consent search, the statutory constraints on a without-consent search do not apply, but we recommend that a school follow them.

If a school decides a search would not be safe, they should call the police. If they are unsure whether or not a search would be safe, they should err on the side of caution and call the police. As this guidance emphasises, the power to search is not a duty: it should

only be used where school staff judge that it is safe to do so. In particular, if members of staff believe that a pupil is carrying a weapon and is likely to resist a search physically, they should call the police rather than try to overcome him. Other factors that school staff can consider in deciding whether they judge that a search would be safe include:

- school staff, especially senior managers, are highly skilled and experienced in managing the behaviour of young people in their charge. This includes the ability to resolve difficult confrontations;
- the law requires a second adult to be present for a search;
- -No member of staff should conduct a search without first having received training.

A suspected pupil might not stay to be searched and might flee the scene. If staff believe that the pupil's running away indicates he would physically resist a search, then whether or not he stays on school premises, and whether or not a weapon has been found, staff should call the police at once and seek to identify the pupil's whereabouts, rather than look for the pupil themselves.

2.4 Staff

2.4.1 A head teacher cannot require anyone other than a member of the security staff to carry out a search where they have reasonable grounds for suspecting that a pupil has a knife or offensive weapon with him or in his possessions. Security staff are staff employed entirely or mainly for school security purposes. A head can if it is reasonable in the circumstances, direct a member of staff to be present at a search. We recommend that this "second person present" should be someone already authorised and trained to search.

2.4.2 On training, insurance, and managing safety, DfES recommends that:

- training for searchers should include how to reduce any search-related risk to the searcher, as well as to others;
- before undertaking a search or authorising staff to do so, the head teacher should check that the employer's Employers' Liability insurance covers any possible claims by staff in the event of any injury to staff as a result of their work in searching a pupil for a

weapon⁶; should only proceed if it does cover this; and should inform any authorised staff of this cover. A Local Authority school employer may self insure if it wishes, but any other employer must take out Employers' Liability insurance;

- Staff who undertake a search according to the law and who follow their employer's guidelines are protected by the law. Staff in practice are not sued, because the employer is "vicariously" liable when their actions are "in the course of employment", which is usually the case where staff follow their employer's guidance. The Department already strongly recommends that every school should have Public Liability Insurance. Any school which plans to use the power to search should ensure that its Public Liability Insurance covers any costs, after a search, of compensation if awarded by a court or agreed by an insurer due to any civil claim against the employer, and any legal expenses from such a claim (or, more rarely, from a prosecution).

2.4.3 Two members of staff must be present at a without-consent search of a pupil or his possessions (even where the search is conducted by the head teacher, who is then one of the two).

2.4.4 During a weapons search of a pupil without consent, the searcher and the required "second person present" must be of the same sex as the pupil searched. This means that a school without two male staff must not search male pupils without consent, and should instead call the police if it does not have a security contractor immediately available. A pupil's possessions can be searched without consent (and the search witnessed) by staff of the opposite sex to the pupil; the pupil must be present.

2.4.5 For a weapons search without consent, the "second person present" must be a member of the school staff, defined as any teacher who works at the school or anyone who, by the authority of the head teacher, has lawful control or charge of the pupils.

2.4.6 School staff can search a pupil outside the school premises where the pupil is under their lawful control or charge, e.g. during an offsite educational visit. But we recommend that on school visits, staff should normally rely on calling the police rather than seek to have a member of staff authorised to search on every

⁶ See DfES's Insurance Guide For Schools.

visit where suspicion might arise.

- 2.4.7 While the law on the power to search does not explicitly prevent more than two persons being present at a search, we recommend that only in exceptional circumstances should a school allow more staff to be present than the two who must be present. For example, searching a pupil with particular Special Educational Needs might be helped by support from a further adult with expertise on the pupil's needs; or, where particular religious or cultural sensitivities might apply, an adult with knowledge of those aspects might help. Some searches might be helped by a parent's presence where that is practicable. A search can in principle be conducted with other persons present (that is, as well as the pupil and two members of staff of the same sex), though the pupil's privacy and dignity should be safeguarded. In some cases it might be advisable to take the pupil to a separate room, for example if the pupil is to be asked to remove a religious head covering.

2.5 Training for school staff

- 2.5.1 The head teacher should undertake training if intending to search pupils for a weapon on suspicion and without consent, and should arrange training (including refresher training) for any school staff whom the head teacher will authorise to search. No-one should do a search before being trained.
- 2.5.2 Members of school staff voluntarily undertaking a search of pupils in their own school are not required to hold a licence under the Private Security Industry Act 2001. So a full 'door supervision' course of 30 hours would not be appropriate. That said, training should be wide enough to cover all topics in this guidance, and should include, for example, awareness of what constitutes a weapon; the issue of any protective clothing for searchers; recording an evidence trail; confiscation of illegal items; and detaining a pupil after a weapon is found.
- 2.5.3 Local trainers in weapons-awareness and search techniques could help to assess a school's needs and arrange suitable training with a headteacher, or with a group of heads and relevant staff. Such training can take into account the school environment and circumstances. It can also build on staff knowledge of the pupils and their existing disciplinary and talking-down skills. Some providers charge per trainee. Others charge by the day for any number of trainees (a typical charge could be £250-£400 per day for a whole group). Head teachers seeking training for themselves and staff could in the first place contact <http://www.skillsforsecurity.org.uk> for advice and the

names of trainers listed under Products and Services – Basic Weapons Awareness. About 40 trainers, accessible through Skills for Security⁷, hold a Skills for Security certificate and adhere to a code of practice agreed with the Association of Chief Police Officers. Head teachers seeking training from other training providers should check credentials and the contents of the course advertised.

- 2.5.4 Training should include questions to ask of, and information to give to, the searched pupil; e.g. the searcher should explain the reason for the search, what the power entitles the searcher to do, and what will or could happen during the search.
- 2.5.5 When staff decide to call the police, they should implement the procedures in the school's policy (see above) on how to deal with a suspected pupil while the police are not present.

2.6 Liaison between the school and local police

- 2.6.1 Whether or not schools use the power to search without consent, school and local police should mutually establish and develop strong partnerships, formally through Safer School Partnerships or otherwise. This could result in better and more cost-effective search arrangements and security procedures. A Safer School Partnership is an effective mechanism for ensuring structured joint working between schools, police and other local agencies. It provides a safer and more secure school environment by engaging with young people, challenging unacceptable behaviour, and helping young people develop a respect for themselves and their community.

2.7 Use of Staff from Security Firms

- 2.7.1 We recommend that, where a school wishes to use a security firm, screening without suspicion in order to deter and prevent is the more cost-effective way. That is likely to provide better value for money than paying a firm to keep trained staff permanently on call to attend at short notice to conduct with-suspicion searches – which would require the head teacher to give them lawful charge of the searched pupils, and authorise them to search.
- 2.7.2 If, despite the above (or in conjunction with no-suspicion screening), a school's managers decide that it would be cost-

⁷ Skills for Security is an employer-led organisation created to develop skills and set standards for the UK security sector.

effective for staff of a security firm to search pupils on suspicion, then:

- the head teacher should give written lawful control or charge of pupils, for the purposes of a search, to any security guard they will authorise to search, as part of the contract between the security firm and the school;
- if a security firm employee searches a pupil, we recommend that the second person who must be present should be a permanent member of the school staff (who is authorised to search), because security-firm staff are likely to be less familiar with the school and its pupils;
- see also separate guidance on when contractors' adults working with children must undergo Criminal Records Bureau checks.

2.7.3 Some schools or local authorities might already pay a firm to supplement or provide security services – e.g. mobile patrols at night-time. By law, security guards must have a licence to operate from the Security Industry Authority (SIA). A licence means that the guard has a formal qualification with (for front-line security guards) training in personal searches and coping with conflict and risk, though not necessarily in working with children. The SIA states that licence-holders will have had their identity and probity (mental health and non-criminality) checked. Further information is on <http://www.the-sia.org.uk/home> which carries a register of licence-holders.

2.7.4 Schools can find information on firms offering security guards from national or local advertising or from the British Security Industry Association (whose 500-plus members do over 70% of security business in the UK), at: <http://www.bsia.co.uk/companyfinder> . The SIA also has a register of security service providers who have achieved the Approved Contractor Scheme at http://www.the-sia.org.uk/home/acs/roac_intro.htm .

2.8 Authorisation

2.8.1 A head teacher needs no authorisation to conduct a weapons search without consent. Other school staff must be authorised by their head teacher before they can do so. Authorisation may be on a long term or permanent basis, or for a stated shorter period, and should be in writing.

2.8.2 We recommend that the “second person present” at a search should be authorised and trained to search, because while they are witnessing the propriety of a search, the member of staff

conducting the search might ask the member of staff witnessing to help more actively. They *must* be authorised if they join the search. The second person can use reasonable force to restrain a pupil if the pupil unexpectedly seeks to assault the person undertaking the search, though such instances would be rare; the statutory power of members of staff to use force applies.

2.8.3 We recommend that head teachers who choose to authorise staff should usually authorise staff generally, to allow a search at any time, at short notice, of any suspected pupil. Authorising just for a particular search could only be done at the time when suspicion arises, which could unhelpfully delay the search. A head teacher could decide to authorise a member of staff to conduct a particular type of search, e.g. during an offsite educational visit (though for practical reasons this might be rare), or for a group of pupils whom the staff member knows well. We recommend that head teachers consider carefully whether to authorise short-term staff or others, especially volunteers, who may not know pupils so well as permanent staff do. School staff not authorised to conduct a search and who suspect the presence of a weapon should tell the head teacher or an authorised colleague, or call the police.

2.8.4 Heads should keep a log of staff authorised, type of authorisation (general, particular type of search, or a particular search) and training achieved.

2.8.5 When the head teacher is not on the premises, if there is an acting head teacher (who may be a deputy head teacher in some instances), then they can take over the head's powers⁸ to conduct a search or authorise another member of staff to conduct a search.

2.8.6 An authorised member of staff of a 'host' school can search pupils from another school who are engaged in learning at the host school.

2.9 Reasonable Suspicion (which allows a search to take place)

2.9.1 If authorised staff suspect a weapon is somewhere in a school or on an offsite educational visit, they can search any of their school's pupils if they have reasonable grounds for suspecting that he has the weapon with him or in his possessions. This is a

⁸ Section 579(1) of the Education Act 1996.

legal standard and not a subjective one; the searcher must assess what constitutes, in each particular case, reasonable grounds for suspicion that a pupil may have a weapon with him or in his possessions. We recommend that the searcher should, in reaching a decision, take account of the following factors.

- [a] No-contact or low-contact screening with a wand or arch might establish suspicion.
- [b] Suspicion should be based on facts relevant to the likelihood of finding a weapon. Reasonable suspicion will rarely be supported on the basis of personal factors alone, without reliable supporting intelligence or information about some specific behaviour by the pupil to be searched. For example, a pupil's race, age, appearance, or any isolated instance of misbehaviour in the distant past must not be used alone or in combination with each other as the reason for suspecting that pupil. Reasonable suspicion cannot be based on generalisations or stereotypical images of certain groups or categories of pupils as more likely to be in possession of a weapon. However, the Department believes that schools will normally be able to make reasonable decisions, based on their knowledge of pupils and their past habitual behaviour.
- [c] Reasonable suspicion may sometimes exist without specific information or intelligence, and on the basis of some level of generalisation stemming from the behaviour of the pupil. For example, if a member of staff sees a pupil in school or on an offsite visit obviously trying to hide something, the member of staff may, depending on other surrounding circumstances, base suspicion on the fact that this kind of behaviour could be linked to a weapon being carried.
- [d] However, reasonable suspicion should normally be linked to accurate and current intelligence or information, e.g. a pupil describes to staff an article being carried by another pupil; from the description, the member of staff suspects it is a weapon. Searches so based are more likely to be effective, and minimise inconvenience both to pupils not suspected, and to staff. It also helps in justifying the search to searched pupils, their parents and school managers. Where a member of staff reasonably suspects a knife is somewhere on the premises, though one has not yet been found, then suspicion may move from initially more suspect

pupils to initially less suspect ones (who may, for example, have been bullied into 'storing' a knife).

- [e] Searches are more likely to be effective and legitimate and to secure public confidence when reasonable suspicion is based on a range of factors. The searcher should state their grounds of suspicion to the searched pupil.
- [f] Where there is reliable information that members of a particular local group habitually carry knives or other weapons unlawfully, this may provide reasonable grounds to search the pupil. A head teacher should not be discouraged from having a pupil searched just because the pupil belongs incidentally to an ethnic or religious minority. This would work against the school's Race Equality Policy (setting out how it tackles racial discrimination and promotes equality of opportunity and good race relations) and its duty of care towards all its pupils.
- [g] Before carrying out a search a member of school staff may ask the pupils questions about the pupil's behaviour or presence in circumstances which gave rise to the suspicion. As a result of questioning, the reasonable grounds for suspicion may be confirmed or be eliminated. Questioning may also reveal reasonable grounds to suspect the possession of a different kind of unlawful article from that originally suspected. But while staff who suspect a pupil can, before searching, question the pupil (and as a result confirm or eliminate their reasonable grounds for suspicion), staff cannot use the result of a search to provide grounds for suspicion retrospectively.

2.10 Location

While pupils can be screened in a public part of the school, we recommend that schools do what they can to conduct a no-consent, on-suspicion search in a private place - that is, out of view of other persons than those who must or may be present. Where this is not possible - for example because the pupil refuses to co-operate - the police should be called. See Section 4[f].

2.11 Extent of Search – clothes and possessions

2.11.1 The power to search on suspicion and 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.

- 2.11.2 The searcher can pat down a person's clothing, without directly touching the body. If patting down finds an object in, for example, a trouser pocket, the pupil can be asked to bring out and show the object. If this is refused, the searcher can search the pocket. A pocket should not be searched when the member of school staff believes the pupil may interpret the search as an assault. The police should be called instead.
- 2.11.3 The searcher can require the pupil to remove outer clothing (e.g. a coat, jacket or pullover - see also the definition and examples of outer clothing in the legislation) if it is necessary for the search. If the pupil refuses, the searcher can use reasonable force to remove outer clothing (see section 13). If reasonable force is not enough to remove the outer clothing and staff still suspect a weapon, they should call the police. This option is always available: the school can stop the search at any point and call the police instead. (Resisting a police search can be a criminal offence⁹.)
- 2.11.4 Staff must not require a searched pupil to remove, and must not themselves remove, clothes beneath outerwear: e.g. trousers, skirt, sari, shirt, blouse, shalwar-kameeze (tunic and trousers), socks, tights. Nor should staff seek the voluntary removal of such clothes. Pupils volunteering to remove such clothes should be required not to do so.
- 2.11.5 A pupil's possessions include any goods over which the pupil has or appears to have control, e.g. a bicycle, panniers, motorbike, car (including family car). A school can already search a pupil's locker, since lockers or other storage facilities are school property (see "Drugs: guidance for schools", DfES, 2004, page 62). The new power expressly preserves existing powers.

2.12 Special Educational Needs/ Medical Needs

- 2.12.1 Any pupil may be upset by being searched without consent. Some pupils with behavioural problems might react strongly to being searched or confined in a private room. School staff should take account of DfES guidance on use of restrictive

⁹ Resisting or wilfully obstructing a constable in the execution of his duty: section 89(2), Police Act 1996.

physical interventions for pupils with severe behavioural difficulties (2003) and for pupils who display extreme behaviour in association with learning disability and/ or autistic spectrum disorders (2002). Schools should not conduct a search themselves, but should call the police, when they expect a pupil may violently resist being searched.

2.12.2 Head teachers and other staff should not normally exempt pupils from a search solely on grounds of their special educational or medical needs. However, schools should take account of any additional sensitivities, e.g. by spending more time discussing their suspicion with a child with learning difficulties or medical needs, before a search, and should involve the special educational needs co-ordinator. Any 1-to-1 supervisor of a pupil being searched should also be present at the search.

2.13 After the Search

2.13.1 If no weapon is discovered by a search, the school can decide to take no further action, but should still:

- briefly record the outcomes;
- inform the pupil's parent; and
- inform the school's governing body annually of how many searches or screenings took place under the school's policy, and the results.

[a] power to seize

2.13.2 The searcher can seize:

- any knife or offensive weapon or anything that could be used as an offensive weapon. See below on storing and surrendering;
- any knife or other weapon found 'accidentally' - when, for example, a mobile phone is being confiscated. It should be treated as if it has been sought;
- anything which provides reasonable grounds for suspecting that an offence has been committed – for example, an offence relating to drugs or to stolen property. See below on found items other than suspected weapons.

2.13.3 When school staff find and seize a knife which they suspect is illegal, they should promptly inform the police. Since staff must pass the seized knife to the police, they should ask if the police are willing to collect it from the school. The police, when they learn of the alleged offence, might also wish to come to the school to question the pupil from whom the knife was seized.

2.13.4 When the authorised member of staff has seized a suspected illegal knife or other weapon found on a pupil's person, he and the second person present should arrange for someone to call the police. If the police say they will come to the school to question the pupil, staff should guard the pupil with reasonable force as necessary until the police arrive. Staff should similarly guard a pupil when they have called the police to attend in order to search that pupil.

[b] storing and surrendering a confiscated weapon

2.13.5 If a suspected illegal weapon is seized it *must* be delivered to the police as soon as is reasonably practicable. This would usually happen at the school, if the police come in response to the school's call. It is lawful for staff to keep a seized weapon (we recommend securing it in a locked cupboard) until delivering it to the police. The head teacher should also arrange for a written note to the police recording delivery of a seized item.

[c] Other found items

2.13.6 A weapon search might find items on the pupil that are against school rules or even illegal such as drugs or stolen property, which the searcher can seize – see power to seize, above; also *Drugs: Guidance for schools* 2004. For general powers for schools to draw up and enforce disciplinary measures, which could include confiscation powers, see DfES guidance, "School Discipline and Behaviour Policies" (2007). Anything which the searcher suspects is evidence in relation to an offence and seizes must, as with weapons, be delivered to the police.

[d] Records

2.13.7 Given that a pupil holding an illegal knife or other weapon on school premises is committing an offence, it is possible that the pupil will be arrested by the police, and that members of staff involved in the search will be called as witnesses in a criminal prosecution. The head teacher should require authorised staff to make and keep a written or electronic record of any search as soon as possible, e.g. in an incident book. It may help prevent any misunderstanding or later misrepresentation. Such records, together with evidence trails, could be of use to the courts. Schools can decide how long to retain a file for the purpose of discerning trends. The record should include:

- name, year, sex, ethnicity of every pupil searched
- grounds of suspicion
- time and place
- who searched
- who else was present
- what if any reasonable force was used, and if so why

- how the search began and progressed
- the pupil's responses and how staff managed them (e.g. steps taken to calm the pupil)
- outcomes and follow-up actions.

2.13.8 Staff might find it helpful to seek advice from a senior colleague or a representative of their professional association when compiling a report.

[e] Informing Parents; complaints

2.13.9 Schools are not required in law to inform a parent before a search or seek parental consent, but a parent might feel concerned about their child being searched. As well as publicising the school's policy in advance (above), we recommend that the school should generally inform parents of pupils other than 18 year olds when their child has been searched, and offer an opportunity to discuss the matter. A parent might complain about a screening or search, to the head teacher, governing body or employer. Schools must have a complaint procedure (in general, not search-specific) and must publicise it¹⁰.

2.13.10 In a few circumstances, we would not recommend informing parents. An example might be where something found could be evidence of an offence involving the parent as well. Another situation might be where, although nothing was found, a parent might be abusive towards the child on the mistaken assumption that the child "must have" done something wrong because staff had grounds for suspicion (which, in fact, does not follow).

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¹⁰ Education Act 2002, section 29.