



Screen Searching and Confiscating Policy



A Policy on screening students

1 Aim

The aim of this policy is to set out the Academy's arrangements for preventing or deterring the carrying of offensive weapons onto the Academy premises.

2 General Principles

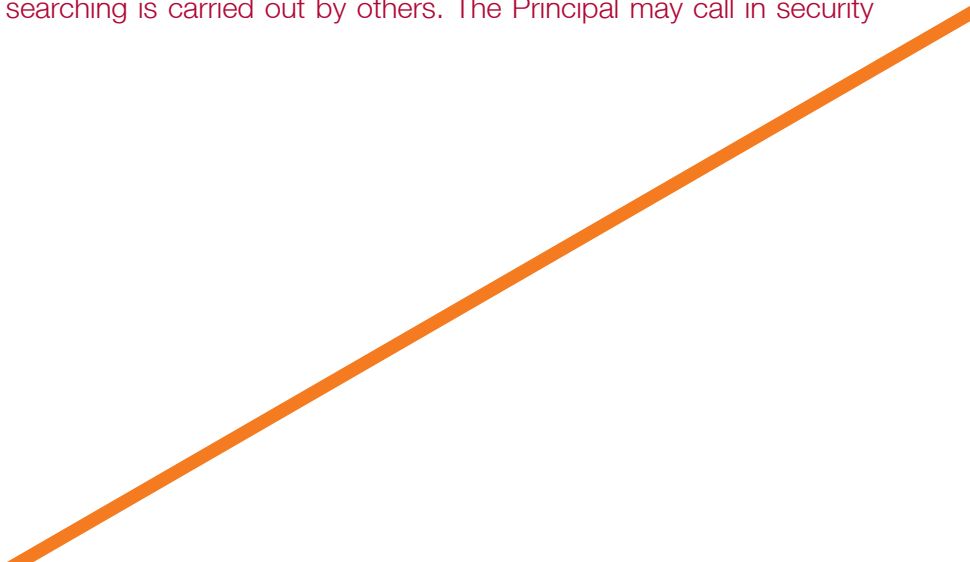
- 2.1 Oasis Community Learning has delegated the power to organise screening of students to the Principal, in accordance with the DfE guidance - Screening and Searching Pupils for Weapons: Guidance for School Staff.
- 2.2 Before any screening is carried out the Principal must inform all parents that the Academy conducts screening as part of the behaviour policy. Parents will also be informed that co-operation with this by parents and students is required by the Academy. It is, therefore, an Academy rule.
- 2.3 Any screening authorised by the Principal will only be occasional.
- 2.4 Students will not normally be screened as they enter the Academy.
- 2.5 Oasis Community Learning has determined that students can be screened without their consent and without any suspicion that they are carrying knives or illegal weapons if a walk-through or hand-held metal detector is used.
- 2.6 The Principal is empowered to call in external security experts to carry out the searching, but a senior member of staff must be present throughout.
- 2.7 If a suspicious object is detected the member of staff in attendance will ask the student to hand the item over. If the student refuses, the student will be taken to the Principal, who will determine whether the student will be searched with or without his/her consent, or what alternative action will be taken.

B Policy on searching students

1 Aim:

The aim of the policy is to set out the Academy's arrangements for discovering whether students have offensive weapons in their possession after reasonable suspicion that they may have.

2 Searching for weapons

- 2.1 The Principal is empowered to authorise any member of staff to search students for knives or other offensive weapons, if there is reasonable suspicion that they are carrying a weapon.
 - 2.2 No member of staff can be directed to screen or search students, but members of staff can be directed to be present when screening or searching is carried out by others. The Principal may call in security experts to carry out the searches.
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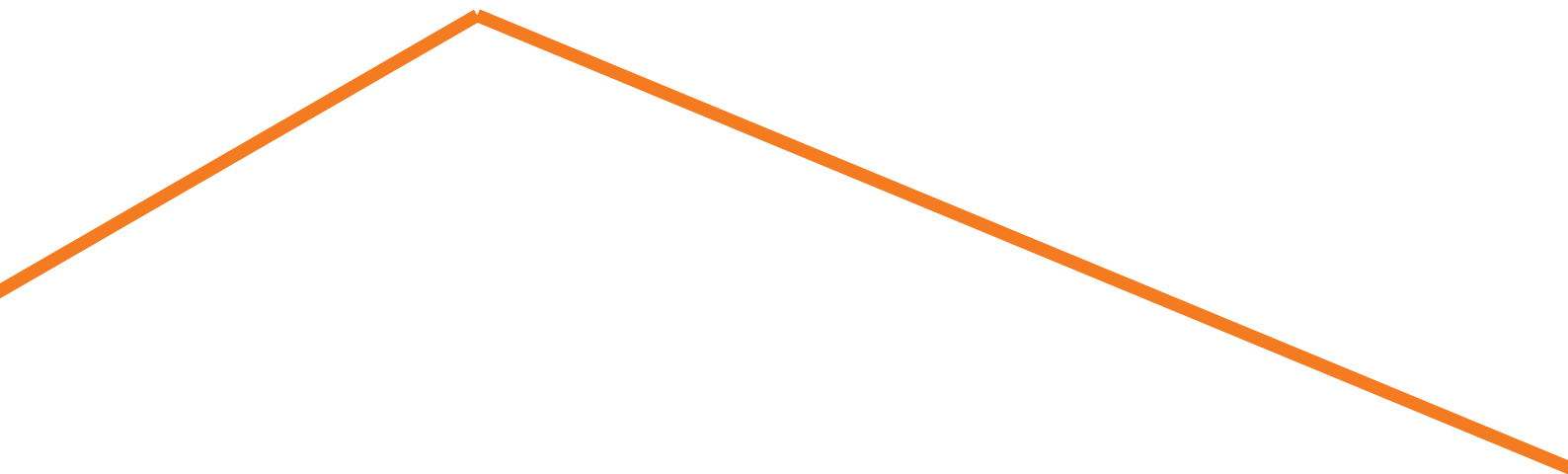
- 2.3 Before exercising this power the Principal or delegated staff must have undertaken appropriate training in search techniques, conflict management and calming strategies, organised by the Principal.
- 2.4 The person carrying out the search must be the same sex as the student and the search must be carried out in the presence of another adult also the same sex as the student. The search must be conducted in a private place.
- 2.5 The student must not be required to remove any clothing other than outer clothing.
- 2.6 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.

3 Other Searches

The member of staff wishing to search the student 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 student's bag. The second member of staff must be of the same sex as the student.

4 Results of searches

- 4.1 If a search reveals any 'offensive weapons' or knives, or 'evidence in relation to an offence' the member of staff must inform the Principal.
- 4.2 The Principal will report the finding of any weapons to the police.
- 4.3 The Principal will determine the action to be taken where evidence relating to any other offence is found.
- 4.4 If evidence of drugs is found the Principal will determine what action to take under the Academy's Drug Policy.
- 4.5 If tobacco or alcohol items are found in students' possession they must be confiscated by the member of staff and taken to the Academy office where the confiscation and treatment of the items will be recorded and promptly placed in safe-keeping.
- 4.6 It is the Academy's policy to destroy tobacco and alcohol items.



5 Recording searches

A record of all searches will be kept under arrangements made by the Principal.

C Policy on Confiscated Items

1 Confiscated Items

1.1 Staff must confiscate the following if found in the possession of students:

- any weapons or items which could be used as weapons;
- illegal drugs; and
- alcohol or tobacco products.

1.2 All staff have the power to confiscate other items of student property which they deem to be undesirable in their lesson.

1.3 Knives and other offensive weapons will be handed to the police.

1.4 Tobacco and alcohol items will be destroyed under orders from the Principal.

1.5 Other items will normally be returned to the student at the end of the day.

1.6 The Principal is empowered to retain any item until a parent collects it. Such action must be recorded.

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

2 Responsibilities

2.1 Oasis Community Learning is responsible for making and reviewing this policy.

2.2 The Principal is responsible for:

- determining whether the screening of students will be organised;
- ensuring that this policy on screening, searching and confiscation of possessions is brought to the notice of parents;
- informing the Council, staff, parents, and students of the policy, and how the policy will be put into action.

2.3 Staff are responsible for carrying out any responsibilities they have accepted.

2.4 No members of staff may be directed by the Principal to screen and search students.

3 Equal Opportunities

The Principal will ensure that any actions taken under this policy will be in accordance with the Academy's equal opportunities and anti-discrimination policies.

4 Monitoring and Review

This policy will be monitored through reports to the Council by the Principal. The policy will be reviewed by Oasis Community Learning every two years.

Appendix 1 - LEGAL POINTS

The Legal Position

Confiscating pupils' property

The Education and Inspections Act 2006 (s94) provides that a person who seizes any item a pupil has in his/her possession and retains it for any period (or disposed of it) is not liable in any proceedings in respect of the seizure, retention or disposal, or any consequential damage or loss.

The staff concerned will not be liable in any proceedings if they can prove that the seizure, retention or disposal was lawful. Nor will staff be liable for any damage or loss as a consequence if the seizure, retention or disposal is lawful.

Nothing in s94 applies when an item is seized under s550AA of the Education act 1996, which provides as to what is to be done with such an item being made by that section. See below)

Reasonable retention

The provisions still beg the question of what is a 'reasonable' retention period. The writer of the 'Loss and Damage' chapter in Butterworth's Education Law Manual reckons that what is reasonable is more a matter of experience than legal precedent, and goes on to suggest - 12 hours for a sandwich lunch; a term for a football sock, and a year for a decent watch!

If the property is stolen, illegal or dangerous the school could return it to the rightful owner, or to a parent or hand it to the police - as appropriate. Or it must be returned to the pupil.

Although there is now a measure of protection against liability (s94 EIA) it is probably still good practice to return confiscated items at the end of the school day – either to the pupil, or to the parents(s) – or at least as soon as it is reasonably practicable to do so. If the property is not collected after reasonable notice and time elapsed it can be sold by the local authority (in the case of maintained schools) or the school (in other cases), but only after giving the owner written (if known) notice, and a further month's grace in which to collect the item(s). (s41 Local Government (Miscellaneous Provisions) Act 1982 and the EIA 2006)

Safekeeping

Teachers are obliged to take reasonable care of confiscated property, in which case no liability will attach to the school for any loss or damage.

If it is damaged through a teacher's negligence, the teacher could be held personally liable. Therefore, the school should ensure that confiscated property can be locked away, and a record taken of the owner, who confiscated it and when and how long the confiscation is to last.

Heads should consider adding to the school rule and sanctions policy the fact that staff might have to confiscate temporarily pupils' property where it was necessary for disciplinary reasons.

The school should also consider whether it could insure against the loss of confiscated property, or to stand the risk of it being lost.

This is particularly relevant if the confiscated property actually belongs to someone else. The position of the school is not clear in these circumstances. The pupil could maintain that the property was always under the supervision of the school, and that, therefore, the school is liable to the third party. Or it might be found in the circumstances that the school is not responsible for the actions of its pupil.

Hence the importance of third party insurance.

Carrying weapons

The Violent Crime Reduction Act makes it an arrestable offence to carry an offensive weapon in public without lawful authority, or to carry in public any article with a blade or which is sharply pointed without good cause (other than a small pocket knife). It is an offence to carry an offensive weapon or knife on school premises, whether maintained school or independent school. The police have the power to enter school premises to search for an offensive weapon.

Screening

The DfE has published guidance on searching pupils and on non-contact screening – Screening and Searching Pupils for Weapons: Guidance for School Staff.

The purpose behind screening pupils is to prevent or deter the carrying of offensive weapons into school.

You can screen pupils without suspicion and without consent if you use a walk-through or hand-held metal detector. No physical searching is involved this way. It is either no contact on pupils' clothing or low contact.

Before carrying out screening parents should be informed that the school conducts screening as part of the behaviour policy. It is also useful to add that co-operation with this is required by the school. It is, therefore, a school rule.

The screening is best if done occasionally and random selection of pupils is made, such as a class or year group. Screening pupils as they enter school should not normally be done, but it may be necessary in exceptional circumstances.

If you actually detect an object a member of staff can ask the pupil to hand the object over, and if this is refused can then carry out a search without the consent of the pupil

Searching for weapons


The Violent Crime Reduction Act 2006 gives heads powers which arguably they already have and encourages yet more police involvement in schools. Section 45 inserts a new section 550AA into the Education Act 1996. It applies to maintained and independent schools as well as academies.

The Act gives the Head and any authorised member of the school staff who has reasonable grounds for believing that a pupil may have with him or in his possession a knife or offensive weapon, the right to search that pupil. i.e you have a reasonable suspicion (not reasonable belief) that the pupil may be carrying a weapon.

The DfE guidance warns against easy suspicions, such as stereotype images, or pupils' age or race, or known personal characteristic. It is difficult to know quite how suspicions may be formed otherwise, but you just have to try to be objective.

The person carrying out the search must be the same sex as the pupil and the search must be carried out in the presence of another adult also the same sex as the pupil. The search must be conducted in a private place.

The pupil cannot be required to remove any clothing other than outer clothing and if the pupil'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.



Heads cannot 'require' most of the school staff to conduct the searches, only 'authorise' them to do so. But they may 'require' security staff to carry out searches. Using trained security staff to carry out planned screening may in fact be the best option. There is no need to have security personnel permanently on-site for this purpose. If school staff are preferred any they will have to be properly trained in search techniques and conflict management and strategies for calming people. The DfE suggests schools to obtain information on selecting a suitable trainer

A pupil's possessions may not be searched under s550AA searches without a second member of staff present, which means that a class teacher working on his/her own cannot require a pupil to empty a school bag under s550AA. Lawyers are of the opinion, however, that such a search can be carried out under the common law. It is unlikely that schools will want to enter into such subtle distinctions! Heads would be well advised to make clear to all members of staff that they cannot search a pupil, or a pupil's belongings, without a second member of staff present.

* If a search under the s550AA rules reveals any 'offensive weapons' or knives, or 'evidence in relation to an offence' the school MUST call the police in. The school has no discretion in this, not even if the Head or anyone else on the staff wanted to resort solely to internal discipline procedures.

** Under the common law schools have not been obliged to inform the police when illegal drugs are found on a pupil. But s45 in the Violent Crime Reduction Act 2006 obliges schools to inform the police if a search reveals 'evidence in relation to an offence'. It would be wise for schools to have a policy that made this clear to all relevant staff.

You should be clear that there is no obligation to carry out without-consent searches. The Act gives schools a 'power' to do it if you think that this will help the school.

Recording searches

The DfE advises that records should be made of all searches.

Police powers to remove pupils to designated premises

The EIA2006 extends police powers to remove excluded pupils to premises designated by the LA and notified to the police, (e.g. to the LA offices). Community Support Officers are also empowered to do the same.

Illegal Drugs

Guidance Circular 4/95 states that a member of staff may search a pupil's locker or desk, if there is reasonable cause to suspect that it contains illegal drugs. But where the pupil is suspected of having illegal drugs on his/her person, every effort should be made to persuade the pupil to hand over the drugs e.g. by asking them to turn out their pockets. If the pupil refuses, the police should be called. It is assumed that under the provisions of the Education and Inspections Act 2006 Heads and authorised staff will have the power to search for and retain drugs, so long as the search is reasonable in all the circumstances.

If drugs are found they should be handed to the police as soon as reasonably possible. It is a defence against the offence of possession of an illegal drug that, knowing or suspecting a substance to be an illegal drug, a person took possession of it in order to prevent another from committing the offence and that as soon as possible after taking possession the person took all reasonable steps to destroy the drug or hand it to the police.

Tobacco and Alcohol

It is now illegal for pupils to smoke in school. But it is theoretically possible to set aside a non-enclosed space in the grounds for smokers – whether staff or pupils.

It is still not illegal for children to possess and to use tobacco or alcohol. The offence is to sell these to children under 16 and 18 respectively.

If you confiscate these items you are covered by the EIA2006 protection concerning liability for seizing possessions. (see above). It is quite likely that the school policy will be to destroy these articles and substances.

It is good practice, and saves a lot of future trouble, if all parents are informed that this is the policy.

Again, you should record briefly the confiscations and treatment of the items – with dates and circumstances.