



Policy Title: Right to Search Policy

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Responsible for Day to Day Management:	Principals
Responsible for Review:	Principals

UNITED ENDEAVOUR TRUST EQUALITY CHECKED

This policy/procedure seeks to:

- Eliminate unlawful discrimination, harassment and victimisation
- Advance equality of opportunity between different groups
- Foster good relationships between groups
- Meet requirements under the Equality Duty
- Set Equality objectives which are specific and measurable



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1. Rationale

This policy has been developed to support the academies and their behaviour policy, in particular the possession of knives or weapons, alcohol or tobacco, illegal drugs and stolen items. It has been introduced primarily to safeguard students but also to protect staff and others.

2. The National and Legal Context

School staff can search a student for any item if they agree. The Principals and staff authorised by them have a statutory power to search students or their possessions, without consent, where they have reasonable grounds for suspecting a student may have a prohibited item. Prohibited items are:

- a) Knives
- b) Alcohol
- c) Illegal drugs and associated paraphernalia
- d) Stolen items
- e) Tobacco, cigarette papers, vapes and e-liquid
- f) Fireworks
- g) Pornographic images
- h) 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 student).

Principals 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.

3. Searching with consent

Schools' common law powers to search:

Academy staff can search students with their consent for any item.

Also note:

The Academies are not required to have formal written consent from the student for this sort of search – it is enough for the teacher to ask the student to turn out his or her pockets or if the teacher can look in the pupil's bag or locker and for the student to agree.

The Academies should make clear in their school behaviour policy and in communications to parents and students what items are banned.

If a member of staff suspects a student has a banned item in his/her possession, they can instruct the student to turn out his or her pockets or bag and if the student refuses, the teacher can apply an appropriate punishment as set out in the school's behaviour policy.

A student refusing to co-operate with such a search raises the same kind of issues as where a student 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.

3b. Confiscation

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

4. Searching without consent

What the law says:

1. Can I search?

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

2. Under what circumstances?

You must be the same sex as the student being searched; and there must be a witness (also a staff member) and, if at all possible, they should be the same sex as the student being searched.

There is a limited exception to this rule. Staff can carry out a search of a student of the opposite sex to you and 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 student is in possession of a prohibited item.

4. Authorising school staff

There is no requirement to provide authorisation in writing.

Staff can refuse to undertake a search. The law states that Principals 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.

5. Training

When designating a member of staff to undertake searches under these powers, the Principal 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 student 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 students talking about the item or they might notice a

student behaving in a way that causes them to suspect that the student is concealing a prohibited item.

In the exceptional circumstances when it is necessary to conduct a search of a student of the opposite sex or in the absence of a witness, the member of staff conducting the search should bear in mind that a student's expectation of privacy increases as they get older.

The powers allow school staff to search regardless of whether the student is found after the search to have that item. This includes circumstances where staff suspect a student of having items such as illegal drugs or stolen property which are later found not to be illegal or stolen.

School staff can view CCTV footage in order to make a decision as to whether to conduct a search for an item.

7. 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 student.

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, cigarette papers, vapes, e-liquid and associated paraphernalia** they may retain or dispose of them.

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 student, for example on school trips in England or in training settings.

The powers only apply in England.

5. Roles and responsibilities

What the law says:

The person conducting the search may not require the student 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 student has or appears to have control – this includes desks, lockers and bags.

A student's possessions can only be searched in the presence of the student 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.

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.

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 student 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.

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, vapes, e-liquid and associated paraphernalia, 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.

Following the search:

Fireworks found as a result of a search may be retained or disposed of but should not be returned to the student.

If a member of staff finds a **pornographic image**, they may dispose of the image unless 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. Images found on a mobile phone or other electronic device can be deleted unless it is necessary to pass them to the police.

Where an **article that has been (or could 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.

It is up to teachers 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).

Where the person conducting the search finds an electronic device that is prohibited by the school rules or that they reasonably suspects has been, or is likely to be, used to commit an offence or cause personal injury or damage to property, they may examine any data or files on the device where there is a good reason to do so. They may also delete data or files if they think there is a good reason to do so, unless they are going to give the device to the police. This power applies to all schools and there is no need to have parental consent to search through a young person's mobile phone if it has been seized in a lawful 'without consent' search and is prohibited by the school rules or is reasonably suspected of being, or being likely to be, used to commit an offence or cause personal injury or damage to property.

The member of staff must have regard to the following guidance issued by the Secretary of State when determining what is a “good reason” for examining or erasing the contents of an electronic device:

In determining a ‘good reason’ to examine or erase the data or files the staff member must 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.

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.

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 student’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 searching should be dealt with through the normal school complaints procedure.

EQUALITY IMPACT ASSESSMENT POLICY CHECKLIST

Equality Impact Assessment of UET Policy						
Title of Policy	Right to search					
PART 1	Positive Impact – reducing inequalities					
<p><i>Statutory duty/equality legislation: Equality Impact Assessment undertaken or is satisfied.</i></p> <p><i>D = Disability, GA = Gender reassignment, P = Pregnancy & Maternity, R = Race, R/B = Religion or Belief, S = Sex, SO = Sexual Orientation, A = Age, M/CP = Marriage and Civil Partnerships</i></p>	<p>How is the policy likely to have a <u>significant positive impact</u> on equality by reducing inequalities that already exist?</p> <p>Could the policy have a <u>significant negative impact</u> on equality in relation to each of the following groups or characteristics?</p>					
Characteristics Indicate areas of likely impact	Promote equal opportunities	Get rid of discrimination	Get rid of harassment	Promote good community relations	Promote positive attitudes	Promote/ protect human rights
□						
D	✓	✓	✓	✓	✓	✓
GA	✓	✓	✓	✓	✓	✓
P	✓	✓	✓	✓	✓	✓
R	✓	✓	✓	✓	✓	✓
R/B	✓	✓	✓	✓	✓	✓
S	✓	✓	✓	✓	✓	✓
SO	✓	✓	✓	✓	✓	✓
A	✓	✓	✓	✓	✓	✓
M/CP	✓	✓	✓	✓	✓	✓
Equality Impact Assessment of UET Policy	Records					
Name of person responsible for policy	Principals					
Date of EIA of Policy	November 2021					

A = Age, M/CP = Marriage and Civil Partnerships –applies in respect of employment framework policies

Equality Impact Assessment of SNT Policy	Evidence
PART 2	
<p><i>Statutory duty/equality legislation: Equality Impact Assessment undertaken or is satisfied.</i></p> <p><i>D = Disability, GA = Gender reassignment, P = Pregnancy & Maternity, R = Race, R/B = Religion or Belief, S = Sex, SO = Sexual Orientation, A = Age, M/CP = Marriage and Civil Partnerships</i></p>	<p>What is the evidence for your answers above? (list any quantitative and qualitative)</p>

Equality Impact Assessment of SNT Policy	Conclusion
PART 3	
Summary of findings	

Equality Impact Assessment of SNT Policy	Next steps		
PART 4			
Category	Actions	Target Date	Person responsible
Next Steps – Action Plan	Ratification of policy and communications		
Practical changes required to reduce adverse impact	Communication of policy with senior staff and pastoral staff	December 2021	Principals
Monitoring and evaluation and Review (publish revised policy)			