

## SCREENING AND SEARCHING OF PUPILS FOR WEAPONS

### Guidance for school staff

A Summary of the DfES Guidance, May 2007

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#### 1. INTRODUCTION

Following a consultative draft document in January 2007, this document provides detailed guidance on screening and searching pupils for weapons. It provides comprehensive information and links to supplementary sources, drawing together advice and guidance on powers available to headteachers and their staff conferred by several pieces of legislation, including the *Education and Inspections Act 2006*, the *Violent Crime Reduction Act 2006*, the *Criminal Justice Act 1988*, and other legislation.

Appendix 1 provides the document's own summary of the guidance, and this is reproduced first *verbatim*.

#### 2. APPENDIX 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**

*(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 decides it is unsafe to search, they should call the police.)*

Searching without consent is the new statutory power from 31 May 2007.

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. See paragraphs on "options before a without-consent search", (in Section 1, Context).

*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.

### **3. SCOPE OF POWERS**

*This is taken verbatim from Section 1 of the guidance to assist full understanding of the scope of the powers.*

#### **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 should obtain training in the use of arches and wands (see section 6, training). 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'. Wands are relatively low-cost, and can be as little as £30 at the time of the publication of this guidance.

Searches on suspicion and without consent can also start by screening. 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.

#### **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:

- (1) a weapon made for causing injury, such as a gun;
- (2) an article adapted for causing injury, such as a bottle broken deliberately for the purpose; and
- (3) 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”.

#### 4. KEY POINTS

##### ***Powers, not duties***

The guidance emphasises that the power to search is exactly that – a power and **not a duty** – and 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 the pupil. 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;
- this guidance recommends **training** before any staff do a search.

##### ***Existing and new powers***

It is **already a criminal offence** [under the *Criminal Justice Act 1988*] to bring a knife or other weapon to school. School staff can already search a pupil, *with* consent, as part of their authority to discipline. The power to screen without suspicion will help to deter pupils from carrying a weapon in the first place. The **new statutory search power**, under education law, allows schools **to search without consent**, though within a range of safeguards.

##### ***Training***

The headteacher 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. The guidance includes advice about where to seek training.

##### ***Authorisation of staff by the headteacher***

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**. It is recommended 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.

##### ***Use of force in conducting a search***

The guidance makes clear that the existing powers to use reasonable force to prevent a pupil committing an

offence, injuring themselves or others, damaging property, or prejudicing the maintenance of good order and discipline **also applies to a search without consent**. However, the guidance advises that if it is thought that a pupil suspected of carrying a weapon is likely to resist physically, school staff should call the police rather than using force to continue a search.

#### ***Extent of Search***

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. *[Section 12 of the guidance provides more detailed information about how personal searches can be conducted].*

#### ***Seizure of offensive weapons***

Section 15 of the guidance covers in detail what should be done if a weapon (or any other prohibited item such as drugs, or, dependent on school rules, an item such as a mobile phone) is found. This includes informing the police in the case of an illegal item; recording the find; storing it.

***The full document can be read/downloaded at:***

***<http://www.teachernet.gov.uk/wholeschool/healthandsafety/schoolsecurity/>***

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