



Pocklington School Foundation

Substance Misuse Policy

Pupil involvement with illegal and prohibited legal substances

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1. Aims and Values

- Embed our Pocklington Values and Virtues into all that we do
- Broaden our pupils’ horizons and elevate their ambitions
- Work and engage with families in educating their children
- Embrace innovation and be conscious of tradition
- Ensure our Foundation’s Future as a provider of excellent education

Our aims reflect the Pocklington School Foundation’s Values and Virtues which provide a framework to support pupils’ academic and personal development:



2. Statement of Intent

These aims and values underpin the school’s desire to encourage a healthy, responsible and safe lifestyle. We are committed to providing a safe and caring environment that is free from any form of disruption to our aims and values.

The school recognises the threat posed by cigarettes, vaping, alcohol and some other legal as well as illegal substances to the pupils’ good health, well-being and enthusiasm to participate, learn and thrive. Hence these matters also threaten our stated aims and intentions for the development of children. The school seeks to protect both individuals and the community as a whole by establishing clear rules about smoking, vaping,



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drinking alcohol and the abuse of illegal substances¹. Pupils' education about such matters is also seen as a central feature of School policy and approach.

The school's intention is that all pupils will clearly understand their responsibility to themselves and each other with regard to the use of and access to cigarettes, vapes / e-cigarettes, alcohol and illegal substances, and the consequences in terms of school discipline if such involvement occurs.

The school further intends to take a moral lead in both working with parents, and in educating and inspiring the pupils in its care toward making informed decisions about any such adverse involvement.

Aims of The Policy

- To provide clear guidelines for pupils and parents with regard to the expectations and sanctions involved with the use or possession of cigarettes, alcohol or illegal or legal substances by pupils whilst under the school's authority.
- To provide staff guidelines for the procedures required in dealing with any such instances.
- To inform pupils and parents as to the educational background provided by the school.
- To inform pupils and parents as to the pastoral care, support and advice provided by the school for either pupils or parents who may have concerns about relevant matters.

3. Definition of 'School Authority'

A pupil is under the school's authority:

- At any time whilst wearing the school uniform (eg. travelling to and from school on public transport)
- At any time whilst attending the school on a school day, whether on or off the school site
- Whenever they are involved in any activity organised by the school
- For boarders or day pupils on the school site, at any time of the day (24 hours)
- For boarders during term time
- **However, the school will retain a reasonable interest in and concern about pupils' behaviour, and involvement with alcohol and illegal and legal substances, at all times and places if such behaviour is considered to have a bearing on school life².**

4. Smoking, Vapes and Use of Tobacco and Nicotine related Substances

¹Pocklington School Rule in the School Calendar.

² Pocklington School Rule in the School Calendar. As such, the definition of school authority referred to in this policy includes the pupils' actions at all times and places.



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Smoking, the possession of cigarettes, tobacco, vapes / e-cigarettes or any material associated with smoking or tobacco are not permitted by any pupil under school authority. Pupils are also forbidden to be in the presence of those engaged in such activities.

i) Sanctions

Any **Pocklington Prep School** pupil found smoking, vaping or in possession of cigarettes, vaping equipment or tobacco / nicotine related substances will be reported immediately to the Head of Pocklington Prep. Parents will be informed and appropriate sanctions and support considered.

Any **Pocklington School (Senior)** day pupil found smoking, vaping or in possession of cigarettes, vaping equipment or tobacco / nicotine related substances* will be reported immediately to the pupil's Housemaster/mistress and Head of Division. Parents will be informed.

Pupils are reminded that vaping (or smoking) or *having any vape equipment or related materials on site* is strictly forbidden and will likely lead to suspension. *Those socialising* with people vaping will also be sanctioned. This is likely to be a Head's Detention, in the first instance.

Smoking / Vaping in school uniform outside school is also likely lead to suspension.

For offending **boarding pupils**, the boarding Housemaster/mistress will inform the parents and impose appropriate sanctions within the house.

Support and education will also be given to pupils, especially where there is concern of addiction. Pastoral and medical staff will liaise with pupils, parents and guardians as appropriate. The opportunity to remind the pupil of the adverse effects to health of smoking will be taken and study work may be set by the Head of PSHE at Pocklington School or the PSHE subject coordinator at Pocklington Prep School who may arrange a lesson of work on this topic.

Further offences by the same pupil will lead to a careful consideration of the individual circumstances, and any of the sanctions available within the **Rewards and Sanctions Policy** may be applied as is deemed appropriate.

**Note that possession and use of nicotine pouches are strictly forbidden and are dealt with in line with vaping / smoking as detailed in this policy.*

ii) Staff Procedures

Should a member of staff find a **Pocklington School** pupil vaping or smoking a cigarette, or in possession of related materials, under school authority, the pupil should be reported immediately to their Housemaster/mistress who will then liaise with the Head of Division and the Deputy Head (Pastoral) as appropriate.

Should a member of staff find a **Pocklington Prep School** pupil in possession of, or smoking a cigarette under school authority, the pupil should be reported immediately to the Head of the Prep School.



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Any cigarettes / vaping paraphernalia found in the pupil's possession should be confiscated and passed on to any of the above senior colleagues with the intention of returning them to the parents as appropriate.⁸ (see ahead).

5. Consuming Alcohol

No alcoholic drink may be possessed, purchased or consumed by any pupil (Pocklington Prep School, Lower School, Middle School or Sixth Form) under school authority, and nor may pupils be in the presence of those engaged in such activities unless specific permission to do so has been granted to the pupils by a member of staff under the appropriate circumstances outlined below:

i) Sixth Form Students (Lower or Upper Sixth)

It may be appropriate on some formal occasions (e.g. Leavers' Ball, OP Evenings, Boarders' Christmas Dinner) where Sixth Form students, under the supervision of staff and with the consent of their parents, may consume alcohol in moderation. The staff will work to ensure sensible and moderate consumption. Spirits will not be offered to any pupil by any member of staff.

ii) Boarding Students and Boarding Sanctions

Whilst present at school, members of the boarding community in the Upper Sixth Form Year only may visit public houses with the permission of their Houseparent on Saturday evenings. Only those pupils who have reached the legal age (18 years) may consume alcohol or attempt to buy it at the bar. If any 6th Form pupil (under the permission granted in (i) or (ii) above) returns to their house in a condition that clearly reflects excessive alcohol consumption, then they can expect to be gated (Saturday to Saturday) or suspended from the school. The Head of Boarding, the Deputy Head (Pastoral) and the Head of Sixth Form will be informed. The parents will be informed and invited to attend the school to discuss the matter if possible.

If any boarding pupil below the 6th Form, or 6th Form boarders not having been granted permission under (i) and (ii) above are found in possession of, purchasing or consuming an alcoholic drink, or they are found in the presence of those engaged in such activities, they can expect to be gated (Saturday to Saturday) or suspended from the school. The Head of Boarding, the Deputy Head (Pastoral), the Head of Division and the parents / guardians will be informed.

Should the pupil be at Pocklington Prep School, the Head of the Prep School and the parents will be informed. Parents will be invited to attend the school to discuss the matter if possible.

Further offences by the same pupil will lead to a careful consideration of the individual circumstances, and any of the sanctions available within the Rewards and Sanctions Policy may be applied as is deemed appropriate.

For subsequent offences by the same pupil, the Deputy Head (Pastoral) or the Head of the Prep School, in liaison with the Head, may wish to review the pupil's position in boarding and / or the School.



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iii) Sanctions for Day Pupils

Any day pupils (1st – 6th Form) found in possession of, purchasing or consuming an alcoholic drink, or found in the presence of those engaged in such activities, whilst under school authority (and not having been granted permission under (i) above) will be reported immediately to the Housemaster/mistress, Head of Division and the Deputy Head (Pastoral). Parents will be informed as soon as possible. Depending on the circumstances, the pupil is liable receive a significant sanction, including suspension, depending upon individual circumstances. If appropriate, wellbeing and health-related support and education will be provided.

Any Pocklington Prep School day pupils found in possession of, purchasing or consuming an alcohol, or found in the presence of those engaged in such activities whilst under school authority will be reported immediately to the Head of the Prep School. Parents will be informed as soon as possible and in the first instance be invited to attend the school to discuss the matter. Support and sanctions will be considered by the Head of Prep in line with the Behaviour Policy.

Further offences by the same pupil will lead to a careful consideration of the individual circumstances, and any of the sanctions available within the Rewards and Sanctions policy may be applied as is deemed appropriate.

For subsequent offences by the same pupil, the Head, in liaison with the Deputy Head (Pastoral) or Head of the Prep School, may wish to review the pupil's position in the school.

iv) Staff Procedures

Should a member of staff find a Pocklington School pupil in possession of, purchasing or consuming an alcoholic drink under school authority, the pupil should be reported immediately to their Housemaster/mistress who will then liaise with the Head of Division and the Deputy Head (Pastoral) as appropriate.

Should a member of staff find a Pocklington Prep School pupil in possession of, purchasing or consuming an alcoholic drink under school authority, the pupil should be reported immediately to the Head of the Prep School.

Any alcohol found in a pupil's possession should be confiscated and passed on to any of the above senior colleagues with the intention of returning it to the parents as appropriate.



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v) Intoxicated Pupil Policy³

Also refer to the Medical Centre Protocols. **Note: This can be a medical emergency.**

The three common causes of death:

- Inhalation of vomit
- Acute hepatitis
- Hypoglycaemia

Other possible causes for the pupils' state should be considered especially if the pupil is unconscious:

- Head injury
- Illegal substances
- Epilepsy or known Diabetic.

Protocol

- A history of the drinking episode should be taken, not only from the pupil but also from a witness.
- The type and quantity of alcohol and the period over which it was consumed should be ascertained. One litre spirit drink over an hour can be fatal.
- An unconscious pupil should be placed into the recovery position and an ambulance called.
- A pupil who has sustained a suspected head injury should be admitted to hospital by ambulance.
- A conscious pupil who cannot describe the events of the incident should be admitted to hospital by ambulance.
- A conscious pupil who can describe the events of the incident according to assessment could be allowed to sleep it off, but an adult should be in constant attendance until recovery has taken place, usually about four hours.
- Recovery is characterised by normal consciousness and behaviour. See AVPU below.

If in any doubt call an ambulance

Levels of consciousness – AVPU

Alert

- Eyes open spontaneously
- Speech is orientated
- Moves accurately to commands, localises pain

Responding to Voice

- Opens eyes to voice command
- Speech is confused and inappropriate words are used
- Movements are uncoordinated

Responds to Pain

- Eyes open to painful stimuli
- Speech is incomprehensible

³ Appendix 1: BSA BBP No 29 October 2016



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- Movements are abnormal

Unconscious

- Eyes do not open
- No speech
- No movement

6. Dealings With Illegal and Legal Substances

The possession, use or distribution of any illegal substance (drug) or any other (legal) drug, or substances (including prescribed medicines) which the Foundation deems inappropriate, by any pupil whilst under school authority, is forbidden and is liable to lead to expulsion⁴. The Foundation reserves the right to make a judgment on the appropriateness of a legal substance for its possession, use or distribution within the Foundation community following any incident of pupil involvement. The Foundation will liaise with the Police as appropriate.

i) Staff Procedures

Should a member of staff find a **Pocklington School** pupil in possession of, using or distributing any illegal or inappropriate legal substance, they should report the incident immediately to the pupil's Housemaster/mistress who will then liaise with the Head of Division and Deputy Head (Pastoral) as necessary, who will in turn inform the Head. Parents will be informed and invited to attend the school in order to discuss the matter. The Head will wish to review the pupil's position in the school. Any of the Sanctions available within the Rewards and Sanctions policy may be applied as is deemed appropriate.

Any unknown or known illegal substance recovered by a member of staff as part of their investigations must **under no circumstances be retained by the member of staff**. Recovered substances must be handed over to the Deputy Head (Pastoral) at Pocklington, or the Head of **Pocklington Prep School** for a Prep School pupil. The substance will be secured in the school safe along with the date and details of the recovery of the substance. The Police will be called as appropriate for further guidance.⁵ (see ahead)

Should a member of staff find a **Pocklington Prep School** pupil in possession of, using or distributing any illegal or inappropriate legal substance, they should report the incident immediately to the Head of the Prep School, who will in turn inform the Head of Pocklington.

Searching Procedures⁶

Reasonably suspected possession, supply or manufacture of illegal drugs may lead to the search of a pupil's person or property or the school's property. However, wherever possible and appropriate, prior consent must be sought and staff are directed to the [DFE guidance 'Searching, Screening and Confiscation'](#) (DFE January 2022) or Boarding Briefing Paper Number 15⁶ before embarking on any search and should discuss the matter with the Deputy Head (Pastoral), Deputy Head and/or the Head in the first instance, or if a Pocklington Prep School pupil, the Head of the Prep School and the Head.

⁴ Pocklington School Rule in the School Calendar. Please also refer to the Rewards and Sanctions Policy.

⁵ Screening, Searching and Confiscation – Advice for Schools. DFE 2022

⁶ Screening, Searching and Confiscation – Advice for Schools. DFE 2022



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Please see Appendix 1 and Appendix 2 for DFE and BSA Guidance⁷ on carrying out searches or Search of A Pupil's Person

Also note:

Teachers should also take account of any additional guidance and procedures on the retention and disposal of items that have been put in place by the school.

Telling parents and dealing with complaints

- 1) *Schools are not required to inform parents before a search takes place or to seek their consent to search their child.*
- 2) *There is no legal requirement to make or keep a record of a search, but this is considered good practice.*
- 3) *Schools should inform the individual pupil's parents or guardians where alcohol, illegal drugs or potentially harmful substances are found, though there is no legal requirement to do so.*
- 4) *Complaints about screening or searching should be dealt with through the normal school complaints procedure.*

ii) Testing Policy

If a pupil is suspected of having taken or to be under the influence of alcohol or drugs, the pupil may be required to undertake a test for their own and others' safety, and to inform any investigation as appropriate. See School Rules and also the Parent Contract, paragraph 67.

There will be no random testing of pupils for any drug usage (unless agreement is made between pupil, parent (s) and school in a 'Supportive Regime' agreement. However, the Head may consider requesting the testing of (for example) a urine, hair or breath sample if the school has good reason to suspect that a particular pupil has been misusing drugs, or in order to assist pupils and parents in removing uncertainty or suspicion.

7. Personal, Social and Health Education

All pupils in the Foundation follow a programme of Personal, Social and Health Education where they are challenged to consider important aspects of their own personal development and safety.

In the context of smoking, drinking alcohol and dealings with illegal substances, Pocklington School pupils experience relevant courses in the 2nd (Year 8), 3rd (Year 9) and 4th (Year 10) Years as given below. The courses

⁷ Boarding Schools' Association Boarding Briefing Paper No. 15 Conducting a search of a pupil's room, belongings or person (BSA 2015)



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lead to a provision of accurate knowledge and the development of the pupil's own positive values and self-respect. This allows the pupils to make their own informed, mature and sensible decisions.

If a pupil presents to the Nurses on a Medical concern the parents will be informed and the student supported medically by the Nurses.

Relevant PSHE Courses at Pocklington School

3rd Year: Issues surrounding smoking cigarettes and their consequential effects. Issues surrounding drinking alcohol, including facts about alcoholic units and %ABV, the relevant laws, effects on the body, safe government levels and the consequential effects.

4th Year: Issues surrounding the knowledge of, and the values and attitudes concerned with illegal substances in all their forms and appearances.

More information about these courses is available from the Head of PSHE at the school. Information about Pocklington Prep School PSHE is available from the subject coordinator.

8. School Support

Pocklington School is very much aware of the threats posed to family life and values by the availability of vapes, cigarettes, alcohol and illegal substances as well as some other legal substances to the children.

Furthermore, the school is sensitive to the general concerns of both parents and pupils, as families look to protect themselves from the consequences of any adverse involvement.

Parents

Pocklington School is available for parents to contact if they wish to seek advice or to discuss the concerns that they may encounter with the parenting of their children in this context. Parents should contact the Deputy Head (Pastoral) or Head of Division in the first instance.

The school has previously arranged information and discussion evenings for parents and staff with regard to the use of cigarettes, alcohol and other legal and illegal substances and will continue to do so in the future. A policy regarding Advice on Running Teenage Parties is also available and regularly distributed to parents.

Pocklington Prep School is available for parents to contact if they wish to seek advice or to discuss the concerns that they may encounter with the parenting of the children in this context. Parents should contact the Head of the Prep School or the Designated Safeguarding Lead in the first instance.

Pupils

Equally, all pupils are encouraged to approach any member of staff if they have their own concerns in this context. For example, at Pocklington School the form tutor, housemaster/mistress, school Counsellors, school nurses, chaplain, Head of Division, Head of Pupil Welfare or indeed any member of staff with whom the pupil



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feels comfortable, are available for help. At Pocklington Prep School, the class teacher, Matron, Head of Year, Designated Safeguarding Lead and Head of the Prep School are available.

If the Foundation feels that a pupil may have a genuine problem with regard to the consumption of alcohol or with smoking / vaping, then the pupil may, where appropriate, be referred to the School Well-Being Service and/or School Nurses for advice and support.

If parents have concerns over the welfare of their child, notably within the context of the pupil's involvement with legal or illegal substances, then the school advises that they seek advice from their doctor.

Pupils should appreciate that it is always better to look for help and support with problems, especially those where the safety and well-being of all pupils is at stake.

Revisions

September 2016: Boarding and Pastoral Coordinator

March 2017: (Pastoral Director)

September 2018: (Pastoral Director)

November 2018: (Pastoral Director)

February 2019 – (Pastoral Director)

February 2020: (Pastoral Director)

February 2021: Deputy Head (Pastoral)

February 2022: Deputy Head (Pastoral)

February 2023: Deputy Head (Pastoral)

April 2024 – Deputy Head (Pastoral)

May 2025 – Deputy Head (Pastoral)



Appendix 1: Detailed guidance on searching including DfE Guidance

Introduction

Key points

Searching:

School staff can search a pupil for any item if the pupil agrees. The member of staff should ensure the pupil understands the reason for the search and how it will be conducted so that their agreement is informed.

Headteachers and staff authorised by them have a statutory power to search pupils or their possessions, without consent, where they have reasonable grounds for suspecting that the pupil may have a prohibited item or any other item that the school rules identify as an item which may be searched for.

Prohibited items are:

- knives or weapons
- alcohol
- illegal drugs
- stolen items
- 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 pupil).

an article specified in regulations:

- tobacco and cigarette papers*
- fireworks
- pornographic images

Headteachers 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.

In Pocklington School, banned items include all those listed and referred to above and those referred to in the School Rules as printed in the Termly Calendar. *Please note that e-cigarettes and vapes are regarded by the school as banned items and treated in the same way as cigarettes and other tobacco items.

The school will always take into consideration the age and needs of the pupil (s) being searched. This includes making any reasonable adjustments for pupils with learning difficulties and also being mindful and respectful of any language difficulties or cultural factors.

*Whilst authorised staff can use reasonable force to search for a prohibited item, as listed above, force cannot be used to search for an item banned by school rules.

In extreme circumstances, where it is deemed necessary to call the police to school to carry out a search of a pupil (s), the Foundation refers to the guidance outlined in [DfE Guidance: Searching, Screening and Confiscation \(July 2022\)](#).



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Confiscation

An authorised staff member carrying out a search can confiscate any item that they have reasonable grounds for suspecting:

- poses a risk to staff or pupils
- is prohibited, or identified in the school rules for which a search can be made
- is evidence in relation to an offence.

For further guidance, especially in regard to how confiscated items should be dealt with, refer to the [DfE Guidance: Searching, Screening and Confiscation \(July 2022\)](#). See also the Pocklington School Policy on Pupil Involvement with Smoking, Alcohol and Dealing with Illegal and Legal Substances and the Policy for the Use of ICT.

Confiscation of Mobile Phones and Web-enabled Devices

- If used contrary to the School Rules, mobile phones and other web-enabled electronic devices may be confiscated as a disciplinary measure, in line with the school's Mobile Phone and Web Enabled Device Policy.

Guidance for Dealing with Electronic Devices

- If the member of staff conducting the search suspects they may find an indecent image of a child (sometimes known as nude or semi-nude images), the member of staff should never intentionally view the image, and must never copy, print, share, store or save such images. When an incident might involve an indecent image of a child and/or video, the member of staff should confiscate the device, avoid looking at the device and refer the incident to the designated safeguarding lead (or deputy) as the most appropriate person to advise on the school's response. Handling such reports or concerns can be especially complicated and schools should follow the principles as set out in Keeping Children Safe in Education (DfE).

Informing parents and dealing with complaints

1) *Schools are not required to inform parents before a search takes place or to seek their consent to search their child but in almost all cases parents will be contacted as soon as is practicable to inform them that a search has taken place, the rationale and what, if anything was discovered.*

2) *Schools are encouraged to include in the record of each search for prohibited items:*

- *the date, time and location of the search;*
- *which pupil was searched;*
- *who conducted the search and any other adults or pupils present;*
- *what was being searched for;*
- *the reason for searching;*
- *what items, if any, were found;*
- *what follow-up action was taken as a consequence of the search..*

3) *Schools should inform the individual pupil's parents or guardians where a search has been made for prohibited items.*



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4) *Complaints about screening or searching should be dealt with through the normal school complaints procedure.*



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Appendix 2: BSA Briefing Paper on Searching Persons, Rooms (2015)

Boarding Schools' Association Boarding Briefing Paper No. 15
Conducting a search of a pupil's room, belongings or person

This Briefing Paper addresses the law and legal issues which arise on the undertaking of any type of search of a pupil or his/her possessions.

A. Relevant Legislation

Section 3 (5) of the Children Act 1989 provides that:

"A person who does not have parental responsibility but has the care of a child may do what is reasonable in all the circumstances of a case for the purpose of safeguarding or promoting the child's welfare"

The Education Act 2011 introduced new provisions into the Education Act 1996 [section 550Z] which give school staff the power to search a pupil or his/her possessions if they believe them to be carrying any prohibited item which the staff member reasonably suspects has been, or is likely to be, (a) used to commit a criminal offence or (b) to cause personal injury to, or damage the property of, any person or (c) any other item which the school rules identify as an item for which a search may be made. Staff are given the power to search a pupil even if they are under the age of criminal responsibility, and likewise staff of the opposite sex may still search a pupil if they believe the risk is so great that serious harm would be caused if they waited to find a member of staff of the same sex as the pupil to be searched.

There are particular rules relating to electronic devices which allow such devices to be seized and examined for relevant data or files which might offend the law or school rules. Section 550Z provides for the return of such devices to the pupil but also deals with any offending data or files which may be erased from the device if the staff member believes there are good reasons for doing so.

The Schools (Specification and Disposal of Articles) Regulations 2012 legislated for the following items to be treated as prohibited items and so subject to the power to search under s. 550Z of the Education Act 1996

- Tobacco and cigarette papers
- Fireworks
- Pornographic images

These regulations also provide for the power of disposal of all of the above after investigation, unless in the case of pornographic images where prohibited images of children or extreme pornographic images where these must be delivered to the police as soon as possible.

In February 2014 the DfE brought together these legislative developments in a guidance entitled **Searching, Screening and Confiscation – Advice for headteachers, school staff and governing bodies**. This guidance is in fact extremely clear and there is little point in paraphrasing it. It is the key document to which schools should refer on conducting pupil searches and is available www.gov.uk/government/uploads/system/uploads/attachment_data/file/444053/Searching_screening_confiscation_advice_Reviewed_July_2015.pdf

Boarding Schools must obviously comply with the **National Minimum Boarding Standards for Boarding Schools**, the latest version (at the time of writing) was published on **1 April 2015** and is available www.boarding.org.uk/370/about-the-bsa/national-standards. Under Standard 9.4 *"any search of boarders' personal belongings should be carried out in accordance with section 550Z of the Education Act 1996 and with regard to any guidance issued by the Secretary of State"*.

Schools should in carrying out searches or investigations in relation to drugs should refer to the DfE and ACPO drug guidance for schools dated September 2012 and available <https://www.gov.uk/government/publications/drugs-advice-for-schools>.

B. School Rules and Policies

As can be seen from the above, and in particular from the DfE guidance, the position on searching pupils has been significantly strengthened and clarified in the last three years and that is to be welcomed.

There is nevertheless still good reason for boarding schools to have clear school rules which identify items not covered by legislation and for which a search may be made. In the absence of school rules clearly identifying such items, school staff will not be protected by the legislation and guidance in carrying out searches.

There is also good reason to include in school rules, policies, parent contracts etc an express power to search. The guidance makes clear that schools can make it a condition of having a locker or a room that the pupil consents to these being searched for any item whether or not s/he is present.

C. To seek, or not to seek, consent?

The DfE guidance makes clear that school staff can search pupils for any item provided the pupil consents (assuming that the pupil is of a sufficient age to be able to consent, ie understands the implications of consenting).

Clearly most boarding schools will want to proceed by way of consent wherever possible, rather than relying on their statutory powers. Whilst consent does not need to be recorded in writing it is probably safer if it is. If there is a dispute about the validity of consent schools will be able to fall back on their statutory powers, but only in circumstances where the items searched for fall within the definition of prohibited items, and only on the basis that the staff member has complied with the relevant conditions set out in s. 550 Z.

In short, it obviously makes sense to ensure that any staff members authorised to carry out searches routinely seek to do so in a manner which is compliant with the legislation, whether or not consent is obtained.



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D. Protection of the person

The power to search without consent does enable a personal search of a pupil involving the removal of outer clothing and searching of pockets. An intimate search going beyond that is not permitted by the Education Act and can only be carried out by someone with more extensive powers (such as a police officer). Any attempt by a staff member to conduct an intimate search will leave him/her open to charges of assault and/or indecent assault.

The legislation and guidance have an expectation that searches of pupils will generally be carried out by an authorised staff member of the same sex. However there are circumstances in which a search may be carried out by a member of the opposite sex. These are when the person carrying out the search reasonably believes there is a risk that serious harm will be caused to a person if the search is not carried out and in the time available it is not reasonably practicable for the search to be carried out by a person of the same sex.

A similar rule applies to the presence of witnesses to any search. A witness must always be present in the case of a search unless the person carrying out the search reasonably believes there is a risk that serious harm will be caused to a person if the search is not carried out and in the time available it is not reasonably practicable for the search to be carried out in the presence of a witness.

E. The position of staff

Headteachers can authorise which staff members can use the statutory powers of search, but they must be so authorised. Security staff can be required to carry out searches, but teaching staff cannot be forced to carry out searches without their agreement.

F. Reasonableness

The statutory power of search, and for that matter any contractual power of search, is subject to a reasonableness test. Teachers can only undertake a search without consent for a prohibited item where they have reasonable grounds for suspecting that a pupil has a prohibited item in his/her possession.

G. Jurisdiction

The legislation only provides statutory powers of search in England. It does not provide protection outside of England, for example on overseas trips. This is yet another reason for schools not simply relying on their statutory powers but ensuring they have policies incorporated into the school parent contract on which they can rely.

H. Impact of human rights legislation

The Human Rights Act 1998 ('HRA') came into force on 2 October 2000. It incorporates into English law the rights and freedoms articulated in the European Convention on Human Rights, an international treaty drawn up in 1950. The central provision of the Act is to make it unlawful for a public authority to act in a way that is incompatible with a person's convention rights.

The HRA binds public authorities or other bodies exercising public functions. Independent boarding schools are, in contrast, generally viewed as private communities exercising private functions, since the provision of educational services is regulated by contracts with parents. It is unlikely, therefore, that independent schools are vulnerable to direct claims from pupils (or parents) based on breaches of human rights. However, this is a developing area of law and schools should take into account that, for example, courts are public bodies and are bound to consider the HRA in the way in which they administer justice.

I. Checklist for searches

1. Whether or not the item under search is high risk – such as knife or drugs – pupils should only be searched if the search is legitimate and is based on a reasonable suspicion. Before proceeding consult the relevant school policy/rules and the DfE Guidance www.gov.uk/government/publications/searching-screening-and-confiscation
2. The extent and nature of the search should be proportionate to the value of or "risk factor" of the item sought (even in the case of stolen property), otherwise there is a danger that it will be considered unreasonable and perhaps lead to a suspicion of an ulterior motive: for example, if every child's locker were searched regularly for lost textbooks this could be seen as a mere pretext for an unreasonable intrusion into their privacy.
3. The extent of the search should also be proportionate to likelihood of the item being found. Consequently, to search all school property when it is most likely that the item will be found in one classroom or one pupil's locker might be an unjustified invasion of the privacy of other pupils and fall outside the terms of the legislation. A wider search might, however, be justified if the item was particularly valuable or dangerous and the evidence could not narrow down the likely culprits.
4. Again, to reduce the chance that a search is the subject of argument at a later stage, it is important that, insofar as possible, the school's policy documents set out explicitly the circumstances in which a search is likely to be made. Using the example of drugs, the policies might make it clear that a search would be undertaken where possession, supply or manufacture of drugs is



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Boarding Schools' Association Boarding Briefing Paper No. 15 Conducting a search of a pupil's room, belongings or person

reasonably suspected.

5. Having considered these factors and decided that a search is reasonable and (hopefully) supported by policy documents and/or legislation, the school should still normally seek the pupil's consent.
6. If consent is refused, and the matter is now considered sufficiently serious, and in the circumstances the law supports a search without consent, a teacher may proceed notwithstanding the pupil's objections. If, however, the allegation is sufficiently serious to warrant this degree of searching, then consideration should be given to whether the pupil's parents should be informed and/or the police involved.
7. Similarly, if the pupil is away and, as a result, it is not possible to seek his/her consent, the teacher should check whether the school's policies provide that a search of school property may be carried out in the pupil's absence and consider whether the particular circumstances are serious enough to warrant the

search.

8. If possible, the pupil should be present during any search of school property used to store his belongings. This will hopefully reduce the chances of an allegation that an item was planted.
9. The search should always be carried out by an authorised staff member of the same sex and take place in the presence of an adult witness unless the exception in the legislation applies. A written record of the search should be made setting out the main details of the search, including the date, time, people present and the outcome.

J. After the search

The DfE guidance lays down the rules regarding retention and/or disposal of prohibited items recovered during a search – and also of those circumstances where prohibited items should be handed over to the police (eg in the case of drugs or unlawful pornography).



Appendix 3: 'Supportive Regime' – Agreement Template

Supportive regime: Agreement template

Date : _____

Full Name of Pupil : _____

Pupil's Date of Birth : _____ Age Now : _____

1. I have made a voluntary admission of having used a controlled drug or substance in breach of the School's policy and disciplinary rules.
2. As an alternative to expulsion, the Head has offered me a supportive regime under which:
 - 2.1 For the remainder of this term and the next three school terms, without obligation on the part of the School, I may at any time be asked to provide a urine, hair or breath sample, under medical supervision, for analysis in accordance with the procedures described in the attached policy which I have read and understood.
 - 2.2 I understand that I may be asked to provide a urine, hair or breath sample at any reasonable time even though no grounds exist at that time to suspect that I have been involved with drugs or substances.
 - 2.3 I agree to be subject to this regime and to co-operate with the School in every respect. I understand that the School will take all reasonable care to preserve my confidentiality and human rights in the operation of this regime.
3. I also understand that if without good reason I fail to co-operate with this regime or if a test proves positive I would almost certainly be required to leave Pocklington School.

Signed: _____

Full Name: _____



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DECLARATION OF PARENTS/GUARDIAN/EDUCATION GUARDIAN

I/We the undersigned have read Pocklington School’s Policy on Substance Misuse, and this Appendix. For my/our part, I/we accept the Head’s offer of a supportive regime for the above-named pupil, as described above.

I/We undertake to co-operate with the regime in all respects and to pay the laboratory charges for each presumed positive test.

Signed:-----

Full Name: -----

Relationship to Pupil: -----

Date: -----

Signed:-----

Full Name: -----

Relationship to Pupil: -----

Date: -----