

Weapon Crime and Youth Violence Protocol for Education.

**Guidance document for Schools and Alternative
Providers in the Wigan/Leigh Borough.**

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Author(s):

Marie Stock and Paul Nolan

**Updated by Wigan partnership including Targeted Youth
Support Service, Fred Longworth High School, St John
Fisher, Bedford High School, Golborne High School, Marsh
Green Primary School (2021 & 2022)**

Contents	2
GM VRU's Vision.....	3
Introduction	4
Flow Chart Key.....	4
Flow Chart.....	5
Toolkit A – Recording techniques.....	6-7
Toolkit B – Safer search techniques.....	8-10
Toolkit C – Safer handling of bladed weapons.....	11
Toolkit D - Legislation guide and reporting to the police.....	12-16
Toolkit E – Commissioned Engagement guidance.....	17
Toolkit F– Event reporting form and risk assessment.....	18-22
Toolkit G –DfE guidance on Searching, Screening and Confiscation Jan 2018	23-36
Toolkit H - NPCC guidance on when to ring the police.....	37

The Greater Manchester Violence Reduction Unit's Vision

Enabling a whole community – a partnership approach to how violence is fundamentally viewed, prevented and managed at primary, secondary and tertiary stages of development.'

Wigan Partnership's Vision

To create a trauma responsive culture that allows partner agencies in Wigan to take a holistic approach in providing a multi partnership response and positive interventions to students who are involved in knife crime on education sites.

Introduction

This protocol and the guidance within this document are for schools in Wigan (Primary and Secondary) and alternative school provisions. It should be used when a child is found in possession of a weapon on the education establishment's site.

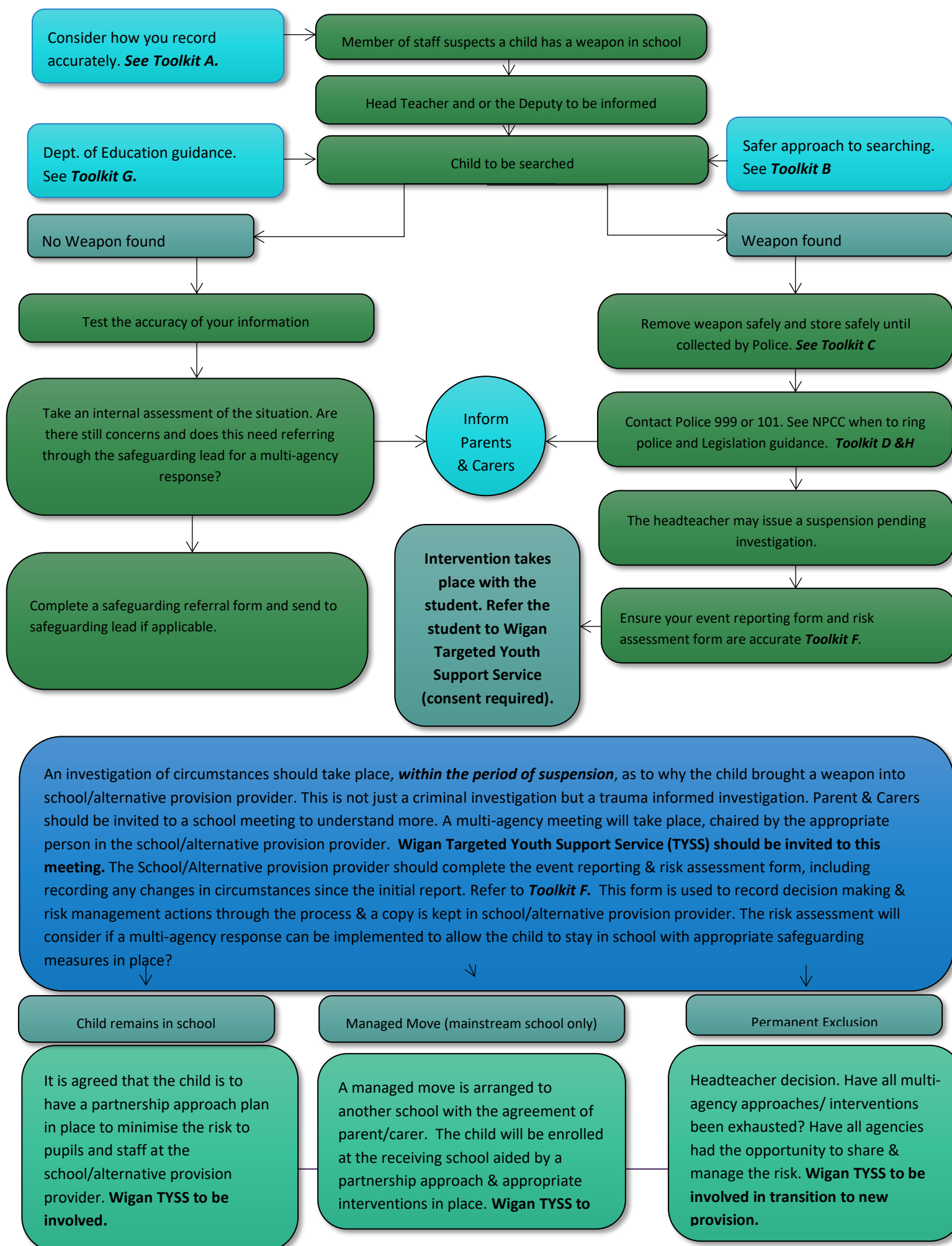
This document has been created to support Wigan schools and alternative school providers to have a consistent approach when dealing with weapons and to understand the legal requirements around these events. It is expected that there will be a multi-agency approach involving the Police, Children's Services and Targeted Youth Support Service to support the Wigan school or alternative school provider and identify suitable early interventions to disrupt the current behaviour patterns and influence positive change. Within this document you will find the following:

1. Procedural Flow Chart.
2. Recording Techniques and advice on how to record accurately.
3. Department of Education (DfE) Guidance on School Policy around Searching, Screening and Confiscation of prohibited articles, which includes weapons.
4. Safer Search Techniques.
5. Safer Handling of Bladed Weapons.
6. A legislation guide with case studies and examples of reporting forms used to inform the police of an event.
7. Commissioned Engagement Guidance – to be completed by each GM Borough and local offer
8. An example of an event reporting form with risk assessment.

This document is designed to provide guidance and should sit alongside government guidance and each school and alternative provision provider's own policies and procedures relating to safeguarding, reintegration, behaviour, managed moves, suspensions and permanent exclusions.

Flow chart key

Colour and shape	Meaning
Green Rectangle	School Action
Cyan Rectangle	Consideration for the School - Toolkit
Grey/Green shaded Rectangle	Title statement
Teal Rectangle	Bespoke intervention process that should be managed through an identified organisation in each district.
Blue Rectangle	Multi-agency approach, all parties have a responsibility to support the school in decision making regarding the child's welfare



Toolkit A.

Guidance on event recording.

This document is useful in developing a practice within schools of asking the right kind of questions to ensure the appropriate action is taken.

The person the information is reported to may not be the person ringing the police or contacting the safeguarding lead in the Local Authority so it is important the information is recorded accurately.

In the case where a pupil reports an event to a member of staff it is crucial that a written record begins at the earliest opportunity. This record will ensure that when information is disseminated between members of staff the information is accurate.

Remember, it is very likely that this information will lead to action and some cases an increased chance of restraint or searching between school staff and a child. Is the action necessary and proportionate in the circumstances?

Consider using open questions;

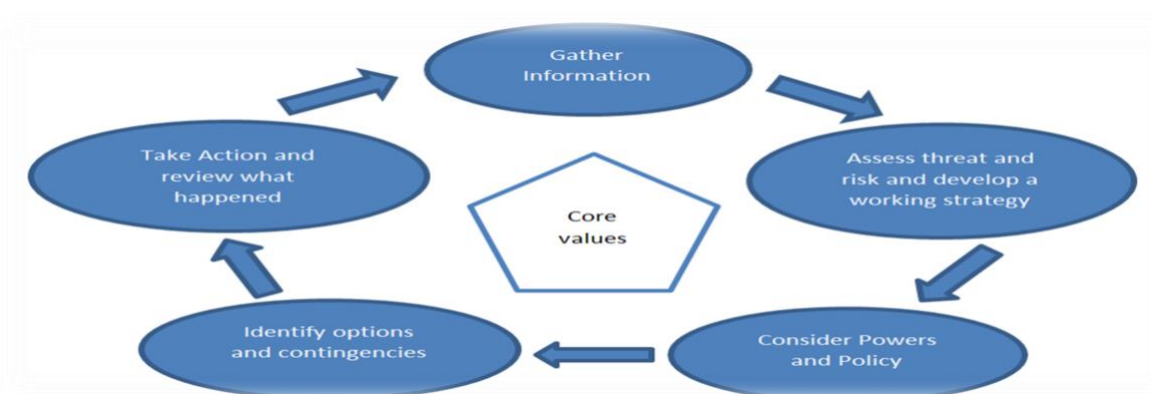
What, Where, When, Who, Why and How.

It is important to test the accuracy (provenance) of the information. If a child tells a teacher that another pupil has a weapon it's useful information but further questions to ascertain how they know this; where did they see the weapon; why have they brought it into school; how did they find out that they had the weapon makes the information more valuable and will lead to a greater confidence in dealing with the event.

Where a member of staff suspects a child has possession of a weapon in school it is equally important to record the same information. If and when the action is questioned the member of staff and the school are confident that their decision making was structured and informed.

The National Decision-making model provides a framework to help you make informed choices based on the information you have and behavioural policies with your establishment.

Fig A is The National Decision-Making model. (NDM)



There is a real balance between the necessity for speed in acting and taking enough time to be sure about the details of the event. It is critical to ask the right questions at the earliest opportunity to build provenance around an event.

Fig B – Suggested format for information collection.

Time	Date	Reporting person	Information
			<p>ADVOKATE.</p> <p>A –Amount of time the observation took place and when was the weapon seen</p> <p>D –How far away were you when you saw the weapon?</p> <p>V – Visibility, are there any reasons why the sighting would be doubted e.g. darker nights at winter?</p> <p>O –Obstructions, was the weapon seen clearly, where there any other items or people in the way?</p> <p>K – Is the child with the weapon known to them and if so how.</p> <p>A –Any reasons for the child to make the disclosure, why are they telling you, why do they know the child has a weapon?</p> <p>T –Time-lapse – how much time has passed between the sighting and the reporting?</p>

			E –Errors, has the person who is taking the report noticed any obvious errors e.g. Child A is named but staff know that Child A is not on site or the description is not accurate.
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ADVOKATE – is a useful acronym to use and is used by the police when taking statements from witnesses. It is recommended that your recording documentation would form part of a chronology, so that when the information is handed from one member of staff to another or one agency to another, there is continuity.

Toolkit B

Some considerations for the safer searching of pupils.

Each Education site will have its own procedures around scanning and searching and their use of the DfE guidance.

Whether the school has a policy of searching all students as a condition of entry, an agreement that a specific student is to be searched on a daily basis or searching based on specific information, there are some safer techniques that can be considered.

Fig A - Search Wand



There are several brands of wands available. Most operate by emitting a sound when they detect metal. Some can be used on silent and will vibrate rather than making a sound.

The wands are a good means of confirming suspicion and they do so in a manner that avoids physical contact between the designated member of staff and pupil.

Communication strategy prior to and during search

Conversation between pupil and teacher should always remain professional. Your intention is to search the young person and it is important to have a no surprise

approach. You may want to consider approaching the conversation in the following manner .

Think of the acronym **GOWISE**

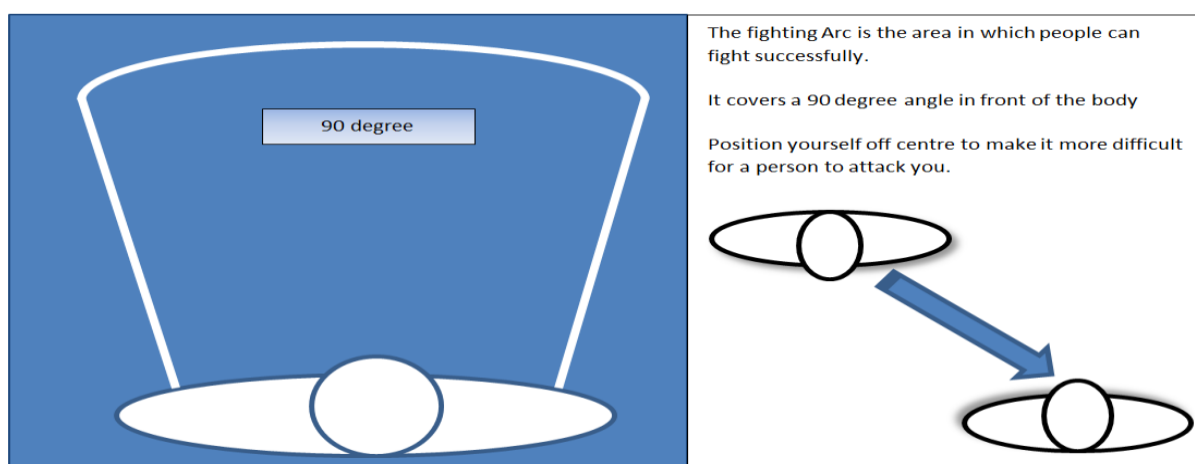
- G** State your Grounds for search; be confident in your powers under the DfE guidance. If you have a written record as per Toolkit A you will understand the value of the information.
- O** Tell the pupil what the Object of the search is – you may be concerned of a blade they may be concerned about something else in their bag
- W** Consider What position you hold in the school and how that affects your power -are you designated?
- I** your Identity; the pupil may know you but they may not.
- S** Search, tell them how you are going to search them. Reassure them that their dignity and safety is paramount
- E** Everything you do should be recorded.

Search Technique

There should be two people present during a search. One designated person to search (they should be the same sex as the person being searched) and one witness. The designated person's job is to conduct the search and the witness will engage the student in conversation, watch for any escalation of behaviour and act as a safety officer.

We should approach in a manner that doesn't invite confrontation, for example remaining out of the "fighting arc".

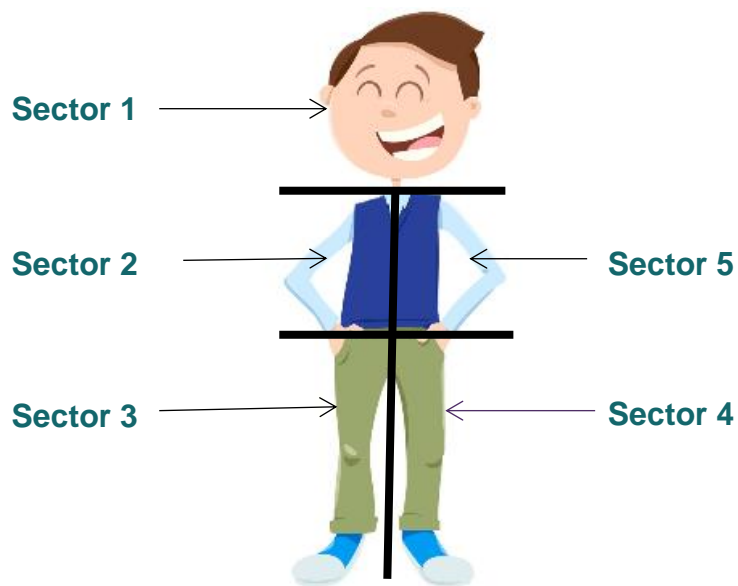
Fig B – Illustration of a fighting arc.



The designated searcher should consider the following guidance as it gives a structured, systematic approach to searching;

Imagine the body split into 5 areas (see fig c); article in one sector you should still continue through all the other sectors.

Fig C –Sectors of the body



Toolkit C

Guidance for the safer handling of Bladed weapons.

In order to ensure the safe handling of a weapon with a blade we are suggesting that you have access to a Knife Tube. Sites that take part in training offered by the GM VRU will be given a knife tube. This tube is similar to Fig A and they come in a variety of sizes. The advice is for the school/alternative provider to use the tube and request a like for like replacement when the police take the weapon away from your site.

Where possible use gloves that are slash proof to handle weapons. In all case be aware of the blade especially in spring loaded and butterfly knives as they can cut fingers when opening, especially if you are unfamiliar with the mechanics.

Fig A – Knife Tubes



In the absence of knife tubes use these techniques to cover the blade prior to securing the weapon in school.

Fig B – Bubble Wrap the blade and tape it



Fig C – Cardboard Wrap the blade and tape it



Fig D – Newspaper around the blade and tape it.



Toolkit D

Legislation guidance

Examples of where an immediate police response is required - dial 999

Where a young person has a weapon and there is;

- A danger to life
- Use of immediate or the threat of immediate use of violence
- Serious injury caused to a person
- Serious damage to property.

There are a number of pieces of legislation that cover the possession of, the use and the threat of the use of weapons in public spaces and schools. This toolkit will cover definitions and how they would apply, depending on circumstances.

It will go some way to explain the Criminal Justice process and how this will affect the young person. The aim is not to criminalise but it is to ensure that the young person is subject to appropriate interventions.

KEY TERMS

School Premises – *The Criminal Justice Act, Section 139A(6) in this section and section 139B*, “school premises” means land used for the purposes of a school excluding any land occupied solely as a dwelling by a person employed at the school; and school has the meaning given by section 4 of the education act 1996.

The site is still school premises when the school is closed.

Caretakers house on site would be land occupied solely as a dwelling.

It does not include Further Education and Higher Education sites.

Blade/Sharply pointed article – case law shows that the sharpness of the blade is not critical, so a blunt knife is still a bladed article. A sharply pointed article is one that has been sharpened so that its usual purpose has changed. An example would be a sharpened screw driver.

Offensive weapon – any article (*including knives and sharply pointed articles*) made or adapted for use for causing injury to the person, or intended by the person having it with him for such use or by some other person.

Youth Caution - is a formal warning that is kept on record by the police. It can be given to young people under the age of 18 who have committed a criminal offence.

Conditional Youth Caution - is a formal warning that is kept on record by the police. It can be given to young people under the age of 18 who have committed a

criminal offence. The conditional aspect means that a number of statutory interventions are put in place so that the young person must engage with Youth Justice.

Out of Court Disposal (OoCD) - are a way of dealing with less serious offending. An offender has to admit they are guilty of an offence to be issued with an out of court disposal and be eligible in terms of previous recorded offending (if the child has received previous out of court disposal one may not be open as an offer to them). The Youth Justice Service will conduct an assessment of the young person's needs and balance that against the severity of the crime. OoCD are interventions that can be educationally based, victim focused or community based.

Folding pocket knife – in order to be exempt from certain pieces of legislation the folding pocket knife's blade must be less than 3 inches and cannot lock into position.

Case Study 1

Circumstances where a person is in a public place with a blade or sharply pointed article.

Section 1 of the Prevention of Crime Act 1953.

Prohibits the possession of an **offensive weapon** in a public place.

Section 139 of the Criminal Justice Act 1988.

Prohibits having with you; in a public place any article that has a blade or is sharply pointed. Folding pocket knives with a blade less than 3 inch are exempt.

Arrest or Voluntary Attendance to a police station, arranged by an officer, based on risk presented at the time.

CPS Guidance.

If the young person is under 16 years old and this is a simple possession offence and not aggravated by the young person threatening or using the article then the advice is to issue a Caution or issue a Conditional Caution. Youth Justice Officers can issue an Out of Court disposal if the circumstances are exceptional.

If the person is over 16 years old the advice is to charge.

Exceptional takes the dictionary definition and the matter must be referred to Youth Justice.

Case Study 2

A Young person is on school property with a blade or sharply pointed article.

Contact the police on 999 or 101.

Section 1 of the Prevention of Crime Act 1953.

Prohibits the possession of an **Offensive weapon** in a public place.

Section 139 of the Criminal Justice Act 1988.

Prohibits having with you, in a public place any article that has a blade or is sharply pointed. Folding pocket knives with a blade less than 3 inch are exempt.

Section 139A(2) of the Criminal Justice Act 1988.

Any person with an offensive weapon, within the meaning of Section 1 above, on school premises shall be guilty of an offence.

Section 139A(1) of the Criminal Justice Act 1988.

Any person who has an article to which section 139 of this act applies with them on school premises is guilty of an offence.

Link to the protocol. The child has been searched on the school premises and a weapon has been found.

The headteacher will decide whether to issue a suspension or permanent exclusion; the police should be informed by following the guidance. The protocol should now be followed

Arrest or Voluntary Attendance to a police station, arranged by an officer, based on the risk presented at the time.

CPS Guidance.

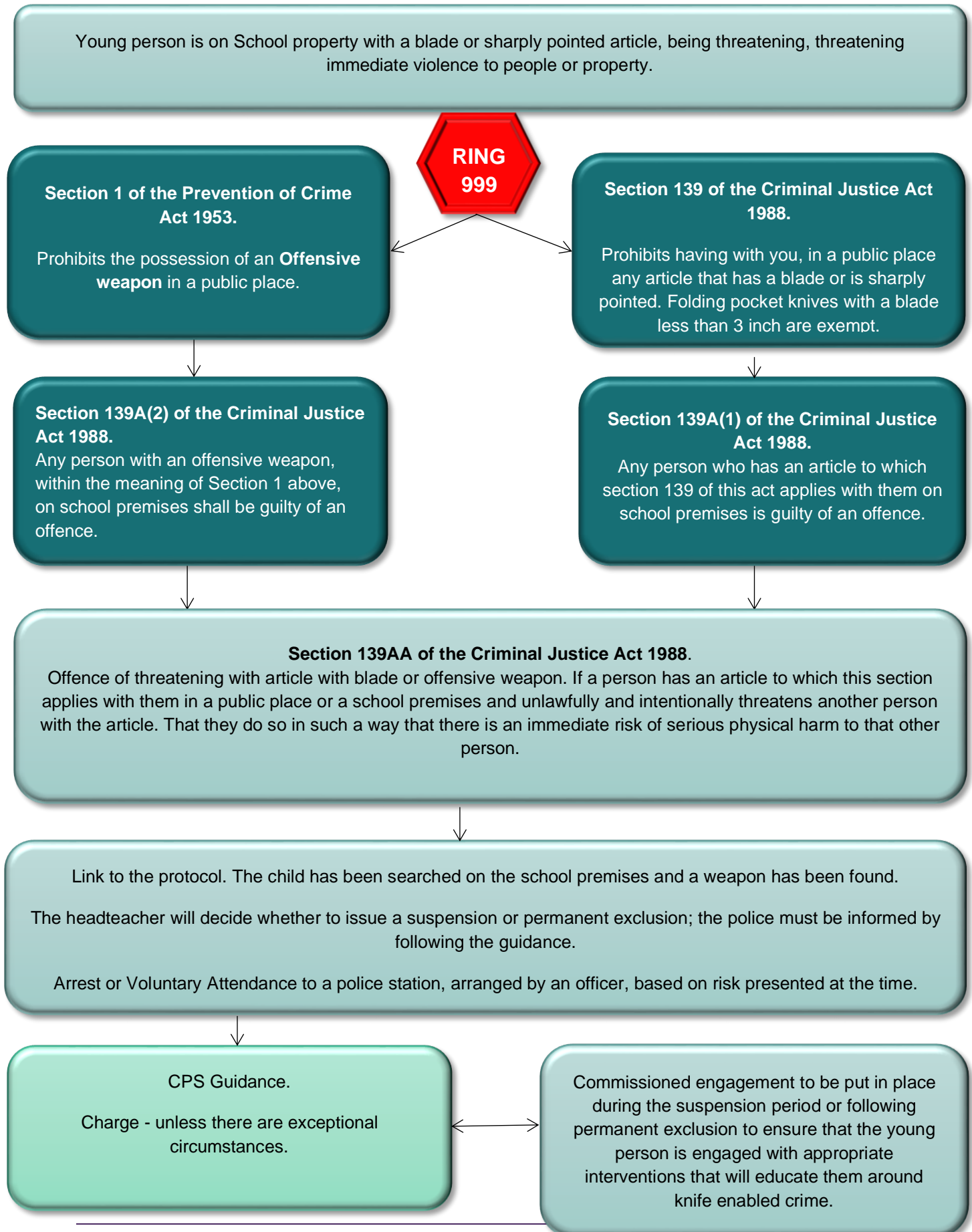
If the young person is under 16 years old and this is a simple possession offence and not aggravated by the young person threatening or using the article then the advice is to issue a Caution or issue a Conditional Caution. Youth Justice Officers can issue an Out of Court disposal if the circumstances are exceptional.

Exceptional takes the dictionary definition and the matter must be referred to Youth Justice.

For a person over 16 years old the CPS advice is to charge the young person.

Commissioned engagement to be put in place during suspension or following permanent exclusion to ensure that the young person is engaged with appropriate interventions that will educate them around knife enabled crime.

Case Study 3



Toolkit E

Partners to inform

Police (You should have a link to local officer or a school engagement officer)

Targeted Youth Support Services, 01942 497100, tyssweb@wigan.gov.uk

Possible referral pathways-

CAMHS 01942 775400

Single Point of Contact (Children's Social Care and Start Well) 01942 828300

Targeted Education Support Service

Aspiring Futures

Wigan Family Welfare

Toolkit F

Example of an event recording form and risk assessment for

Instructions.

- When reporting a concern just complete Section 1
- In all other circumstances where action is taken complete the whole form
- Email the completed form to Head Teacher of School/alternative provider/College

Section 1 : Event details

Date		Time	
Site		Room or Location	

What are you reporting?

Where did the information regarding the knife/weapon come from?

Name of reporting party and contact details.

Forename
Family Name
Home address
Contact email
Contact Mobile/telephone
Employee Number

It is vital that the information recorded by the school/alternative provider/college is accurate and that we test the validity of the information being passed to us. If someone says they have seen a weapon we should feel that we can ask probing questions – this is not to question what they have seen but it is to gather accurate information with provenance.

What time and date is this reporting being completed?

Section 2 –Reporting member of staff

Role with organisation

Forename

Family name

Employee number

Contact email and number

Section3 – Witness details

Witness name and Contact details (email and mobile)

Do they have any material evidence – footage on mobile/device?

1

2

3

Section 4 – Event Summary, Investigation.

1. Name of the young person, DOB, Address, GP.
2. Parent/Carer/Next of kin details.
3. Contact address, email and mobile and relationship to the young person.
4. Parties present and involved in the event.
5. Circumstances of the event, consider the environment and the individual when discussing causes. Action taken – who has been contacted, contact details and any reference numbers.
6. Has consent been given to share information given to share information

An Aide Memoire to assist on information collection.

ADVOKATE

A –Amount of time the observation took place and when was the weapon seen

D –How far away were you when you saw the weapon?

V – Visibility, are there any reasons why the sighting would be doubted e.g. darker nights at winter?

O –Obstructions, was the weapon seen clearly, where there any other items or people in the way?

K – Is the child with the weapon known to them and if so how.

A –Any reasons for the child to make the disclosure, why are they telling you, why do they know the child has a weapon?

T –Time-lapse – how much time has passed between the sighting and the reporting?

E –Errors, has the person who is taking the report noticed any obvious errors e.g. Child A is named but staff know that Child A is not on site or the description is not accurate.

Section 5 – Action Timetable

Contact 1 – Time, Date and Location

Parties present

Risk Assessment include Corrective Actions

Commissioned Engagement

Contact 2 – Time, Date and Location

Parties present

Risk Assessment

Commissioned Engagement

Toolkit G



Searching, screening and confiscation: advice for schools

<https://www.gov.uk/government/publications/searching-screening-and-confiscation>

Department of Education's published Guidance on screening, searching and confiscation of prohibited articles. Advice for head teachers, school staff and governing bodies

January 2018

Contents

Summary	3
About this departmental advice	3
Expiry or review date	3
Who is this advice for?.....	3
Key points	3
Searching	3
Confiscation.....	4
Schools' obligations under the European Convention on Human Rights (ECHR).....	4
Screening.....	5
Searching with consent	6
Searching without consent.....	7
During the search	10
After the search	11
Further sources of information.....	15
Associated resources (external links)	15
Legislative links.....	15

Summary

About this departmental advice

This advice is intended to explain schools' powers of screening and searching pupils so that school staff have the confidence to use them. In particular, it explains the use of the power to search pupils without consent. It also explains the powers schools have to seize and then confiscate items found during a search. It includes statutory guidance which schools must have regard to.

Expiry or review date

This advice will be kept under review and updated as necessary.

Who is this advice for?

This advice is for:

- School leaders and school staff in all schools in England.
- For the purposes of this advice references to “maintained school” means a community, foundation or voluntary school, community or foundation special school. It also means Pupil Referral Units and non-maintained special schools.
- For the purpose of this advice references to “Academy” means Academy schools (including mainstream free schools) and Alternative Provision (AP) Academies (including AP free schools).
- Where particular provisions do not apply to a particular type of school we make this clear.

Key points

Searching

- School staff can search a pupil for any item if the pupil agrees.¹ The ability to give consent may be influenced by the child's age or other factors
- 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. Prohibited items are:
 - knives or weapons
 - alcohol
 - illegal drugs
 - stolen items
 - tobacco and cigarette papers
 - fireworks
 - pornographic images
- 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).
- 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.

Confiscation

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

Schools' obligations under the European Convention on Human Rights (ECHR)

- Under article 8 of the European Convention on Human Rights pupils have a right to respect for their private life. In the context of these particular powers, this means that pupils have the right to expect a reasonable level of personal privacy.

- The right under Article 8 is not absolute, it can be interfered with but any interference with this right by a school (or any public body) must be justified and proportionate.
- The powers to search in the Education Act 1996 are compatible with Article 8. A school exercising those powers lawfully should have no difficulty in demonstrating that it has also acted in accordance with Article 8. This advice will assist schools in deciding how to exercise the searching powers in a lawful way.

Screening

What the law allows:

- Schools can require pupils to undergo screening by a walk-through or hand-held metal detector (arch or wand) even if they do not suspect them of having a weapon and without the consent of the pupils.
- Schools' statutory power to make rules on pupil behaviour ² and their duty as an employer to manage the safety of staff, pupils and visitors ³ enables them to impose a requirement that pupils undergo screening.
- Any member of school staff can screen pupils.

Also note:

- If a pupil refuses to be screened, the school may refuse to have the pupil on the premises. Health and safety legislation requires a school to be managed in a way which does not expose pupils or staff to risks to their health and safety and this would include making reasonable rules as a condition of admittance.
- If a pupil fails to comply, and the school does not let the pupil in, the school has not excluded the pupil and the pupil's absence should be treated as unauthorised. The pupil should comply with the rules and attend.
- This type of screening, without physical contact, is not subject to the same conditions as apply to the powers to search without consent.

² Section 89 of the Education and Inspections Act 2006 for all maintained schools, PRUs and NMSS and the Education (Independent School Standards) (England) Regulations 2010 for academy schools and alternative provision academies

³ Section 3 of the Health and Safety at Work etc. Act 1974

Searching with consent

Schools' common law powers to search:

- School staff can search pupils with their consent for any item.

Also note:

- Schools are not required to have formal written consent from the pupil for this sort of search – it is enough for the teacher to ask the pupil to turn out his or her pockets or if the teacher can look in the pupil's bag or locker and for the pupil to agree.
- Schools should make clear in their school behaviour policy and in communications to parents and pupils what items are banned.
- If a member of staff suspects a pupil has a banned item in his/her possession, they can instruct the pupil to turn out his or her pockets or bag and if the pupil refuses, the teacher can apply an appropriate punishment as set out in the school's behaviour policy.
- A pupil refusing to co-operate with such a search raises the same kind of issues as where a pupil 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.

Searching without consent

What the law says:

What can be searched for?

- Knives or weapons, alcohol, illegal drugs and stolen items; and
- Tobacco and cigarette papers, fireworks and pornographic images; and
- 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, or damage to property; and
- Any item banned by the school rules which has been identified in the rules as an item which may be searched for.

1. Can I search?

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

2. Under what circumstances?

- You must be the same sex as the pupil being searched; and there must be a witness (also a staff member) and, if possible, they should be the same sex as the pupil being searched.
- There is a limited exception to this rule. You can carry out a search of a pupil of the opposite sex to you and / or 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 pupil is in possession of a prohibited item.

Also note:

- The law also says what must be done with prohibited items which are seized following a search.
- The requirement that the searcher is the same sex as the pupil and that a witness is present will continue to apply in nearly all searches. Where it is practicable to summon a staff member of the same sex as the pupil and a witness then the teachers wishing to conduct a search must do so.

4. Authorising members of staff

- Headteachers should decide who to authorise to use these powers. There is no requirement to provide authorisation in writing.
- Staff, other than security staff, can refuse to undertake a search. The law states that headteachers 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.
- A headteacher can require a member of the school's security staff to undertake a search.
- If a security guard, who is not a member of the school staff, searches a pupil, the person witnessing the search should ideally be a permanent member of the school staff, as they are more likely to know the pupil.

5. Training for school staff

- When designating a member of staff to undertake searches under these powers, the headteacher 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 pupil 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 pupils talking about the item or they might notice a pupil behaving in a way that causes them to suspect that the pupil is concealing a prohibited item.
- In the exceptional circumstances when it is necessary to conduct a search of a pupil of the opposite sex or in the absence of a witness, the member of staff conducting the search should bear in mind that a pupil's expectation of privacy increases, as they get older.
- The powers allow school staff to search regardless of whether the pupil is found after the search to have that item. This includes circumstances where staff suspect a pupil of having items such as illegal drugs or stolen property which are later found not to be illegal or stolen.
- School staff may wish to consider utilising CCTV footage in order to make a decision as to whether to conduct a search for an item.

7. Searches for items banned by the school rules

- An item banned by the school rules may only be searched for under these powers if it has been identified in the school rules as an item that can be searched for.
- The school rules must be determined and publicised by the headteacher in accordance with section 89 of the Education and Inspections Act 2006 in maintained schools. In the case of academy schools and alternative provision academies, the school rules must be determined in accordance with the School Behaviour (Determination and Publicising of Measures in Academies) Regulations 2012. Separate advice on school rules is available in 'Behaviour and Discipline – advice for headteachers and school staff' via the link under Associated Resources.
- Under section 89 and the School Behaviour (Determination and Publicising of Measures in Academies) Regulations 2012 the headteacher must publicise the school behaviour policy, in writing, to staff, parents and pupils at least once a year.

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 pupil, for example on school trips in England or in training settings.
- The powers only apply in England.

During the search

9. Extent of the search – clothes, possessions, desks and lockers

What the law says:

- The person conducting the search may not require the pupil 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 pupil has or appears to have control – this includes desks, lockers and bags.
- A pupil’s possessions can only be searched in the presence of the pupil 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.

Also note:

- 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.

10. 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 pupil 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.

11. 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, 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.
- Separate advice is available on teachers' power to use force – see Associated Resources section below for a link to this document

After the search

12. The power to seize and confiscate items – general

What the law allows:

- Schools' general power to discipline, as circumscribed by Section 91 of the Education and Inspections Act 2006, enables a member of staff to confiscate, retain or dispose of a pupil's property as a disciplinary penalty, where reasonable to do so.

Also note:

- The member of staff can use their discretion to confiscate, retain and/or destroy any item found as a result of a 'with consent' search so long as it is reasonable in the circumstances. Where any article is reasonably suspected to be an offensive weapon, it must be passed to the police.
- Staff have a defence to any complaint or other action brought against them. The law protects members of staff from liability in any proceedings brought against them for any loss of, or damage to, any item they have confiscated, provided they acted lawfully.

13. 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 pupil.
- 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 or cigarette papers they may retain or dispose of them. As with alcohol, this means that schools can dispose of tobacco or cigarette papers as they think appropriate but this should not include returning them to the pupil.
- Fireworks found as a result of a search may be retained or disposed of but should not be returned to the pupil.
- If a member of staff finds a pornographic image, they may dispose of the image unless they have reasonable grounds to suspect that 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.
- Where an article that has been (or is likely to 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.

14. Statutory guidance on the disposal of controlled drugs and stolen items

- It is up to the teachers and staff authorised by them 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).

15. Statutory guidance for dealing with electronic devices

- 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 should 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.⁴
 - 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.

- All school staff should be aware that behaviours linked to sexting put a child in danger. Governing bodies should ensure sexting and the school's approach to it is reflected in the child protection policy. The UK Council for Child Internet Safety

4 Section 62 of the Coroners and Justice Act 2009 defines prohibited images of children. Section 63 of the Criminal Justice and Immigrations Act 2008 defines extreme pornographic images.

(UKCCIS) Education Group has recently published the advice [- sexting in schools and colleges - responding to incidents and safeguarding young people](#)

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.

16. 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 pupil'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 screening or searching should be dealt with through the normal school complaints procedure.

Further sources of information

Associated resources (external links)

- Use of Reasonable Force - advice for headteachers, staff and governing bodies
Behaviour and Discipline in Schools
- Behaviour and Discipline in Schools - advice for head teachers and school staff
- Information Commissioner for advice on the Data Protection Act
- Keeping children safe in education statutory guidance for schools and colleges
- UK Council for Child Internet Safety- UKCCIS Sexting in schools and colleges -
responding to incidents and safeguarding young people

Legislative links

- The Education Act 1996
- Education and Inspections Act 2006
- Education (Independent School Standards) (England) Regulations 2010
- The Schools (Specification and Disposal of Articles) Regulations 2012
- School Behaviour (Determination and Publicising of Measures in Academies)
Regulations 2012
- Health and Safety at Work etc Act 1974

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Toolkit H

National Police Chief's Council and Child Centred

NPCC- guidance on when to ring the Police

Page 16 is specific to weapons

