

HOLLINSWOOD PRIMARY SCHOOL AND NURSERY **WHOLE SCHOOL BEHAVIOUR AND DISCIPLINE POLICY**

At Hollinswood Primary School and Nursery we believe that children learn best and behave best when they know what is expected of them. We want to help them to grow up with a clear view of what is right and wrong and an appreciation of the needs of others and the society around them. We believe that it is important to teach the behaviour that we want to see in school and support that behaviour through positive encouragement. In doing this we expect to be actively supported by parents. All children and adults in school are valuable, irrespective of age, gender, or race and deserve respect as individuals.

Our values:

At Hollinswood Primary School & Nursery our curriculum develops 4 key values in our children.

Being Respectful.

- Children are encouraged to respect the ideas, attitudes, values, and feelings of others regardless of race and culture.
- Children are encouraged to treat others fairly and with kindness, respect, and encouragement.
- Children are taught to respect, value and support each other as learners and their learning environment.
- Children are taught about the environment and how they impact on the environment and the world around them.

Being Resourceful.

- Children will become confident, resourceful, enquiring, and independent learners.
- Children will have the mental agility to transfer the skills and knowledge they have learned to solve problems and embrace new opportunities.
- Children will be able to build on prior knowledge and skills.

Being Resilient

- Children will be encouraged to take pride in their work and the work of others.
- Children will be confident to take risks.
- Children will develop a 'have a go attitude.'

Being Responsible.

- Children will recognise their own mistakes and errors as a learning opportunity.
- Children will have high expectations for themselves – learning behaviour, progress in learning, presentation and personal conduct.
- Adults and children establish positive working relationships in the classroom and around school.

This includes in school and whilst pupils are learning remotely.

Expectations of all Adults in School

In their role at Hollinswood Primary School and Nursery they are acting in a position of authority and have a duty of care towards the children and young people they work with. They are likely to be seen as a role model and are expected to act appropriately. The expectation is that all staff will respond to behaviour with deliberate calm.

Staff at school and volunteers are responsible for:

- prioritising the welfare of children and young people
- providing a safe environment for children and young people
- ensuring equipment is used safely and for its intended purpose
- having good awareness of issues to do with safeguarding and child protection and taking action when appropriate.
- following our principles, policies and procedures including our policies and procedures for child protection/safeguarding, whistleblowing and online safety
- staying within the law always
- modelling good behaviour for children and young people to follow
- challenging all unacceptable behaviour and reporting any breaches of the behaviour code to SLT.
- reporting all concerns about abusive behaviour, following our safeguarding and child protection procedures, this includes behaviour being displayed by an adult or child and directed at anybody of any age.

Rights

Staff should:

- treat children and young people fairly and without prejudice or discrimination
- understand that children and young people are individuals with individual needs
- respect differences in gender, sexual orientation, culture, race, ethnicity, disability and religious
- belief systems, and appreciate that all participants bring something valuable and different to
- the group/organisation
- challenge discrimination and prejudice
- encourage young people and adults to speak out about attitudes or behaviour that makes them uncomfortable.
- Consistently positive and appropriate language always used. Model behaviours expected of the children – being polite.
- This is to include modelling and promoting good hygiene and handwashing such as ‘use the catch it, bin it, kill it’ approach and
- Meet and greet – start of the day, interactions in the corridor, at the end of the day, staff and children, staff and staff
- Register – a quiet time when all the children greet the class teacher – eye contact... (look for a way to find out feelings...)
- All staff will address and deal with positive and negative behaviours as they occur and will see that through.
- All staff consistently use positive reinforcement for all children which is deemed as fair for all.

Relationships

Staff should:

- promote relationships that are based on openness, honesty, trust and respect
- avoid favouritism
- be patient with others

See Appendix 4 for additional principles for staff to be followed in response to the Coronavirus pandemic.

Promoting Good Behaviour as a Whole School

There are certain factors which have an impact on children's behaviour and the following are essential in motivating pupils and reducing the likelihood of disruption:

- A well planned, relevant, appropriately differentiated curriculum
- Clearly defined expectations of behaviour set out in a few simple, positively stated rules.
- Have clear, consistent routines – communicated to the children.
- Enhancing children's self esteem through praise and encouragement, valuing their efforts, and creating a safe emotional environment.
- Giving children the opportunity to "get it right".
- Giving children the opportunity to see modelled good behaviour and drawing attention to desired behaviour.
- Use the whole school Team Points system in place to encourage and celebrate success.
- Following the steps system to focus on learning and minimise low level disruption.
- Ensuring that all staff have a responsibility for all children, and all consistently follow the same expectations of behaviour.
- For the child who displays difficult behaviour provide more supports to act as a bridge in bringing about the desired behaviour.
- Home/ school agreement between school, parents and child that agrees roles in promoting good behaviour.

Classroom Behaviour Management

We believe as a school that the key to good behaviour management is Quality First Teaching. All lessons will be at least good. This includes using a range of strategies to engage all children and promote high expectations:

- Good teaching environment – Layout of the room and resources, well planned to enable independence
- Well planned lessons which promote enthusiasm and curiosity
- Ensure that the children understand the learning objectives and success criteria for the lesson.
- Differentiation of task – ensuring a match of work to ability, and ensuring it provides appropriate challenge
- School/class rules shared with children and well displayed

- Establish ground rules – what to do if they complete work early, get stuck
- Timing of activities – keeping everyone busy
- Classroom routines known to the children and parents
- Effective use of additional adults
- Consistent high expectations of all children and share this with them
- Dealing with inappropriate behaviour in the agreed ways

Reward Systems

We recognise and reward good behaviour in a variety of ways. We believe in a consistent and fair approach to rewarding pupils.

Staff will maintain a positive attitude to learning, giving children verbal and non-verbal encouragement. These might include:

- Body language – nod, smile, clapping
- Whole class praise e.g. thumbs up, YES!!, special times, playtimes
- Public praise e.g. celebration assembly, Diamond Diners.
- Written praise e.g. response to work through marking and positive comment
- Symbolic praise e.g. stickers, smiley faces, stamps, certificates
- Head teacher praise and stickers
- Behaviour charts

Incentives such as ‘Hats of Brilliance’, ‘Rosettes of Genius’ and ‘Proud to shine’ displays are used to reward too.

We also have a whole school reward system which uses ClassDojo as a way of rewarding and tracking behaviour:

- Children on ClassDojo are grouped in house teams (Fire, Earth, Air and Water).
- Children will participate in activities in teams, so they identify with who is in their team and who their team captain is.
- Dojo points are collected each half term and a trophy is rewarded to the winning team.
- Children are given three points for each of the four Rs - Being resilient, being resourceful, being respectful and being responsible. Points will be given by all members of staff.
- Team points will be reset every week and the top three dojo point scorers will win a prize from the prize box or similar reward.
- Tally is kept of the number of points children receive and when the pupil achieved 100 points, a note from the Headteacher is posted to their home.

When pupils are learning remotely, class teachers will continue to provide positive praise via ClassDojo.

Agreed Positive Reinforcement Linked to the School Rules:

The 4 Rs will be displayed in all class bases and some communal areas. Children through the day who are seen to be following 4 Rs well are acknowledged, and reference made to them.

Unacceptable Behaviours

Disruptive or unacceptable behaviour can still occur and will, depending on circumstances, be dealt with discretely. Some examples of unacceptable behaviour are:

- Refusal to get on with a task.
- Refusal to follow instructions and guidance which puts themselves or other children or adults at risk.
- Being unkind to other children
- Scribbling on or spoiling books and work
- Damaging equipment
- Rough play on the playground e.g. pulling coats, pushing or jumping on others.
- Deliberately spitting or coughing at or towards other pupils/adults or acting in a way to deliberately increase risk of harm to others.

Agreed Sanctions:

Step 1: Positive reinforcement.

Use a child who is demonstrating the values we expect.

Step 2: A Reminder Conversation

Acknowledgement of the key value which is not followed
"I have noticed that you are finding it difficult to be....today"
Reflect back to a time when they demonstrated the value.
Outline expectations.
Leave to give child time to change behaviour

Step 3: A Warning

Re-acknowledgement of the rule which has not been followed.
Same conversation and opportunity to put things right.
Warning to be "go for time out"...

Step 4: Time Out – time to reflect and self-regulate.

This may be in a designated space in the classroom or an agreed place elsewhere.

Step 5: Restorative conversation

Re-acknowledgement of the rule which has not been followed.
Same conversation and opportunity to put things right.
Warning to be "sanction/consequence"...

Step 6: Sanction/consequence

Time spent with class teacher or the person who has given the sanction at an agreed time (could be at breaktime, lunchtime, at the beginning of the next lesson).
Communicated to parents via ClassDojo, phone call or a letter.

Step 7: Restorative conversation

A set of key questions will be asked to help children think about their behaviour and understand how they can correct it.

Times when it needs an immediate SLT response.

If required, send a message with detail of incident to member of SLT.

- Aggressive behaviour – endangering self and others
- Threatening behaviour, i.e. using inappropriate language
- Leaving school building
- Refusal to follow instructions which then endangers self and others.
- Racist incident

It is important that teachers work down the list of sanctions, allowing the child time to correct their behaviour before more serious sanctions are used. If an episode of unacceptable behaviour occurs during playtime or lunchtime, the person who is on duty must deal with it, following the school steps. If it is not possible to deal with it during the break time, the same member of staff must speak to the child later in the day instead of passing the matter to another member of staff.

Additional Courses of Action for Specific Pupils with Particular Needs.

Individual children may sometimes need additional help or structured support. This may be given through a statement of special needs, but there may be other pupils who from time to time require further support.

When behaviour strategies outlined above are not successful the following courses of action may be taken:

- Establish an individual provision map outlining support strategies using a consultation between staff and the SENCO to look at interventions. This may include use of additional school resources including staffing to support needs.
- Discussion with a child's parents to keep them informally apprised of their child's behaviour difficulties (e.g. via the telephone or at a meeting)
- Advice from, or referral to the Behavioural Support Team or other external agencies (e.g. L.S.A.T. or E.P.)
- Formal meetings, to include parents and others when appropriate, may be arranged by the Head teacher to consider the best ways forward.
- Use of the CAF / TAC process, including using the Fair Access panel when appropriate

Assessment and Reporting

Each class teacher should log behavioural incidents using the CPOMS system. All teachers are to be shown how the system operates. This is for the class teacher to record serious incidents and their sanctions, allowing for a record of behaviour patterns to be kept and monitored.

Equal Opportunities

Equal opportunities is about ensuring that every member of the school community is regarded as being of equal worth and importance, irrespective of culture, race, gender, sexual orientation, learning abilities, sensory or

physical impairment, social class or lifestyle; it is about recognising differences, meeting individual needs and taking positive action, so that everyone has equal access to the educational opportunities offered by the school; it is also about regularly monitoring that each child has the opportunity to achieve.

The Power to Discipline Beyond the School Gate

The school may be involved in disciplining pupil's misbehaviour 'beyond the school gate'. Disciplining beyond the school gate covers the school's response to all non-criminal bad behaviour and bullying which occurs anywhere off the school premises and which is witnessed by a member of staff or reported to the school. The governing body must be satisfied that the measures proposed by the head teacher are lawful. **(See Appendix 1)**

Leaving the Classroom or School Grounds without Permission

If a pupil runs out of a class, we will establish where he or she has gone. Teachers must not run after them but will send a message to the office for adult support. However, it is essential to keep a watchful eye on any child who has taken him or herself out of the school building and possibly out of school grounds. Staff will intervene when appropriate and take a mobile phone if they follow off site. If a child is no longer on school premises parents will be contacted. If they are not at home the police will be informed that a pupil has left school and is at risk.

Searching and Confiscation

The Head teacher, Deputy Head teachers and senior members of staff have a statutory power to search pupils or their possessions, with or without consent, where they suspect the pupil has certain prohibited items. The items that can be searched for under this power are knives or weapons, alcohol, illegal, drugs and stolen items. School staff can seize any banned or prohibited item found as a result of a search or is considered to be harmful or detrimental to school discipline. **(See Appendix 2)**

Use of Reasonable Force

The term 'reasonable force' covers the broad range of actions used by all members of staff at some point in their career that involves a degree of physical contact with pupils. Force is usually used to either **control** or **restrain**.

The use of physical intervention is rare and is, wherever possible avoided. There may be occasions where the use of physical restraint is appropriate; for example, if a child is hurting his/her self and/or others or making a threat to injure using a weapon. Any intervention used will always be minimal and in proportion to the circumstances of the incident. All physical intervention will be recorded in the class behaviour record. **(See Appendix 3)** and recorded and analysed by the Head/Deputy. The school will ensure that appropriate staff are MAPA trained.

Pastoral Care for School Staff

If an employee is accused of misconduct and pending an investigation, the governing body will instruct the Head teacher to draw on the advice in the 'Dealing with Allegations of Abuse against Teachers and Other Staff' guidance when setting out the pastoral support school staff can expect to

receive if they are accused of misusing their powers. Staff should never feel isolated when dealing with challenging behaviours. It is always helpful and supportive if staff talk about concerns and consider strategies beforehand. We have a system to summon help if needed from a colleague and the use of walkie talkies. Staff should also pay attention to their own self esteem. We can act as models by making positive comments about ourselves and our colleagues.

Exclusions

If, in extreme circumstances, the headteacher considers that there is a need to exclude the child, because of a fear of real danger to other children or to themselves, then the 2008 guidance would be followed. A copy of the 2008 full guidelines can be seen by contacting the headteacher. A child returning to school after a period of exclusion would have a behaviour support plan drawn up.

Exclusion will only be considered when all other avenues have been explored to protect the other children and staff from mental and physical harm.

Role of the Governors

The governors support the headteacher and staff in maintaining a high standard of discipline. In consultation with the headteacher the governors establish the principles for the school's behaviour and discipline policy which will be acted on and clearly understood by children, parents and school staff. They adopt a home/ school agreement and have a specific role to play in the exclusion and complaints procedures.

Partnership with Parents

As a school we aim to

- Provide a welcoming atmosphere which encourages parents to become involved and promotes an active home/ school partnership.
- Ensure that parents are not only told when their child is in trouble but also when they have been praised.
- Ensure that parents are familiar with the main points of the behaviour policy through the Behaviour Policy Leaflet.

We communicate this through – induction meetings, parent/ teacher meetings, school prospectus, home/school agreement, behaviour policy leaflet, and celebration assembly.

Bullying

Bullying in this school will not be tolerated. We believe that bullying involves:

- Deliberate hurtful behaviour
- A repeated pattern of either physical, verbal or indirect hurtful behaviour
- Difficulty found by the bullied individual to defend themselves.

Our approach involves all staff, children, parents and other adults. It will be dealt with pro-actively by following the school Anti-bullying policy.

Remote learning conduct
The role of staff and volunteers:

Appendix 1

The Power to Discipline Beyond the School Gate

Disciplining beyond the school gate covers the school's response to all non-criminal bad behaviour and bullying which occurs anywhere off the school premises and which is witnessed by a member of staff or reported to the school. The governing body must be satisfied that the measures proposed by the head teacher are lawful.

Any bad behaviour when the child is:

- Taking part in any school-organised or school-related activity or
- Travelling to or from school or
- Wearing school uniform or
- In some other way identifiable as a pupil at the school.

Or, misbehaviour at any time, whether or not the conditions above apply, that:

- Could have repercussions for the orderly running of the school or
- Poses a threat to another pupil or member of the public or
- Could adversely affect the reputation of the school.

As a result of any of these behaviours, the Head teacher will collect witness statements from both adults and children who have witnessed the event. The parents of the child involved will be contacted and invited into school to discuss the matter. Sanctions for the bad behaviour will follow those issued by the school for bad behaviour during the school day. Parental support will be sought for sanctions which they are able to administer outside the school day.

Following any incident, the Head teacher will consider whether it is appropriate to notify the police or Community Support Officers on Hollinswood of the actions taken against a pupil. If the behaviour is criminal or poses a serious threat to a member of the public, the police will always be informed. If there is any concern that the behaviour may be linked to the child suffering, or being likely to suffer, significant harm, safeguarding procedures would be followed.

Appendix 2

Searching

School staff can search a pupil for any item if the pupil agrees.

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:

The ability to give consent may be influenced by the child's age or other factors:

- 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 behaviour² and their duty as an employer to manage the safety of staff, pupils and visitors³ 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.

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

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.

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.
 - 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.

Appendix 3

The use of Reasonable Force

What is Reasonable Force?

- (i) The term 'reasonable force' covers the broad range of actions used by most teachers at some point in their career that involve a degree of physical contact with pupils.
- (ii) Force is usually used either to control or restrain. This can range from guiding a pupil to safety by the arm through to more extreme circumstances such as breaking up a fight or where a student needs to be restrained to prevent violence or injury.
- (iii) 'Reasonable in the circumstances' means using no more force than is needed.
- (iv) As mentioned above, schools generally use force to control pupils and to restrain them. Control means either passive physical contact, such as standing between pupils or blocking a pupil's path, or active physical contact such as leading a pupil by the arm out of a classroom.
- (v) Restraint means to hold back physically or to bring a pupil under control. It is typically used in more extreme circumstances, for example when two pupils are fighting and refuse to separate without physical intervention.
- (vi) School staff should always try to avoid acting in a way that might cause injury, but in extreme cases it may not always be possible to avoid injuring the pupil.

2 Who can use Reasonable Force?

- (i) All members of school staff have a legal power to use reasonable force
- (ii) This power applies to any member of staff at the school. It can also apply to people whom the head teacher has temporarily put in charge of pupils such as unpaid volunteers or parents accompanying students on a school organised visit.

3 When can Reasonable Force be used?

- (i) Reasonable force can be used to prevent pupils from hurting themselves or others, from damaging property, or from causing disorder.
- (ii) In a school, force is used for two main purposes – to control pupils or to restrain them.
- (iii) The decision on whether or not to physically intervene is down to the professional judgement of the staff member concerned and should always depend on the individual circumstances.
- (iv) The following list is not exhaustive but provides some examples of situations where reasonable force can and cannot be used.

Schools can use Reasonable Force to:

- Remove disruptive children from the classroom where they have refused to follow an instruction to do so;
- Prevent a pupil behaving in a way that disrupts a school event or a school trip or visit;

- Prevent a pupil leaving the classroom where allowing the pupil to leave would risk their safety or lead to behaviour that disrupts the behaviour of others;
- Prevent a pupil from attacking a member of staff or another pupil, or to stop a fight in the playground; and restrain a pupil at risk of harming themselves through physical outbursts.

Schools Cannot:

Use force as a punishment – **it is always unlawful to use force as a punishment.**

Using Force

A panel of experts³ identified that certain restraint techniques presented an **unacceptable risk** when used on children and young people. The techniques in question are:

- The 'seated double embrace' which involves two members of staff forcing a person into a sitting position and leaning them forward, while a third monitors breathing;
- The 'double basket-hold' which involves holding a person's arms across their chest; and
- The 'nose distraction technique' which involves a sharp upward jab under the nose.

Staff Training

Training is provided for senior staff so that they are able to support staff across the school. A senior member of staff will always support other staff across the school.

Telling Parents when Force has been used on their Child

All incidents of reasonable force are recorded in order to support the child and staff involved. (see sheet below)

What happens if a Pupil Complains when Force is used on them?

- All complaints about the use of force should be thoroughly, speedily and appropriately investigated.
- Where a member of staff has acted within the law – that is, they have used reasonable force in order to prevent injury, damage to property or disorder – this will provide a defence to any criminal prosecution or other civil or public law action.
- When a complaint is made the onus is on the person making the complaint to prove that his/her allegations are true – it is **not** for the member of staff to show that he/she has acted reasonably.
- Suspension must not be an automatic response when a member of staff has been accused of using excessive force. Schools should refer to the "Dealing with Allegations of Abuse against Teachers and Other Staff" guidance where an allegation of using excessive force is made against a teacher. This guidance makes clear that a person must not be suspended automatically, or without careful thought.
- Schools must consider carefully whether the circumstances of the case warrant a person being suspended until the allegation is resolved or whether alternative arrangements are more appropriate.

- If a decision is taken to suspend a teacher, the school should ensure that the teacher has access to a named contact who can provide support.
- Governing bodies should always consider whether a teacher has acted within the law when reaching a decision on whether or not to take disciplinary action against the teacher.
- As employers, schools and local authorities have a duty of care towards their employees. It is important that schools provide appropriate pastoral care to any member of staff who is subject to a formal allegation following a use of force incident.

What about other Physical Contact with Pupils?

- It is not illegal to touch a pupil. There are occasions when physical contact, other than reasonable force, with a pupil is proper and necessary.
- Examples of where touching a pupil might be proper or necessary:
 - a) Holding the hand of the child at the front/back of the line when going to assembly or when walking together around the school;
 - b) When comforting a distressed pupil;
 - c) When a pupil is being congratulated or praised;
 - d) To demonstrate how to use a musical instrument;
 - e) To demonstrate exercises or techniques during PE lessons or sports coaching; and
 - f) To give first aid.

Review

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