

# POCKLINGTON SCHOOL FOUNDATION



## Policy on Pupil Involvement with Smoking, Alcohol Consumption and Dealing with illegal and Legal Substances

Date of Policy:	February 2022
Previous version:	February 2021
Policy Owner:	Martin Davies (Deputy Head - Pastoral))
Review & Update Frequency:	Annually and more frequently as required
Governor Committee:	Pastoral and Safeguarding Oversight Committee

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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, alcohol and some other legal as well as illegal substances to the pupils' good health, well-being and enthusiasm to participate, learn and succeed. 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, drinking alcohol and the abuse of illegal substances<sup>1</sup>. Pupils' education about such matters is also seen as a central feature of School Policy.

<sup>1</sup>Pocklington School Rule in the School Calendar.

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, 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 life<sup>2</sup>.**

## 4. Smoking Cigarettes – All references to cigarettes in this policy refer equally to “E-cigarettes”/“Vapes”

This is regarded as a totally unacceptable practice for any pupil (Pocklington Prep School, Lower School, Middle School or Sixth Form) whenever under the school's authority.

Smoking, the possession of cigarettes, tobacco or any material associated with smoking, 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 or in possession of cigarettes will be reported immediately to the Head of Pocklington Prep. Parents will be informed and in the first instance the pupil issued with a Conduct Card.

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<sup>2</sup> 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.

Any **Pocklington** day pupil found smoking or in possession of cigarettes will be reported immediately to the pupil's Housemaster/mistress and Head of Division. Parents will be informed and in the first instance the pupil placed in a School Detention<sup>3</sup>.

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

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.

For subsequent offences, the Deputy Head (Pastoral) may consider suspension from Pocklington School. For subsequent offences at the Prep School, the Head of the Prep School may consider suspension from the School.

For a persistent offender, the Headmaster, in liaison with the Deputy Head (Pastoral), or Head of the Prep School, may wish to review the pupil's position in the school.

## ii) Staff Procedures

Should a member of staff find a **Pocklington School** pupil in possession of, or smoking a cigarette 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.

Any cigarettes 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.<sup>8</sup> (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 (Leavers' Ball, OP Evenings, Boarders' Christmas Dinner, a meal at the Headmaster's or a Houseparent's house) where Sixth Form students, under the supervision of staff and with the consent of their parents, may consume an alcoholic drink. The staff will of course ensure sensible and moderate consumption. Spirits will not be offered to any pupil by any member of staff.

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<sup>3</sup> Please refer to the Rewards and Sanctions Policy.

## 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 Housemaster/mistress 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 6<sup>th</sup> 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 Deputy Head (Pastoral), the Head of Sixth Form, and the parents, who will be invited to attend the school to discuss the matter if possible, will be informed.

If any boarding pupil below the 6<sup>th</sup> Form, or 6<sup>th</sup> 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 Deputy Head (Pastoral), the Head of Division and the parents 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 Headmaster or the Head of the Prep School, in liaison with the Headmaster, may wish to review the pupil's position in the school.

## iii) Sanctions for Day Pupils

Any day pupils (1<sup>st</sup> – 6<sup>th</sup> 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 and in the first instance invited to attend the school to discuss the matter. The pupil is liable to be given study work by the Head of PSHE or suspended, depending upon individual circumstances.

Any **Pocklington Prep School** day pupils 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 will be reported immediately to the Head of the Prep School. Parents will be informed and in the first instance be invited to attend the school to discuss the matter. The PSHE subject coordinator will arrange a lesson of work; the pupil may be suspended, depending on individual circumstances.

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 Headmaster, 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 the 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.<sup>8</sup> (see ahead)

## v) Intoxicated Pupil Policy<sup>4</sup>

### 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
- Movements are abnormal

#### Unconscious

- Eyes do not open
- No speech
- No movement

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<sup>4</sup> Appendix 1: BSA BBP No 29 October 2016

## 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 expulsion<sup>5</sup>. 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 Headmaster. Parents will be informed and invited to attend the school in order to discuss the matter. The Headmaster 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.<sup>6</sup> (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 Headmaster of Pocklington.

### ***Searching Procedures***<sup>7</sup>

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 2018) or Boarding Briefing Paper Number 15<sup>8</sup> before embarking on any search and should discuss the matter with the Deputy Head (Pastoral), Deputy Headmaster and/or the Headmaster in the first instance, or if a Pocklington Prep School pupil, the Head of the Prep School and the Headmaster.

**Please see Appendix 1 and Appendix 2 for DFE and BSA Guidance<sup>8</sup> 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.*

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<sup>5</sup> Pocklington School Rule in the School Calendar. Please also refer to the Rewards and Sanctions Policy.

<sup>6</sup> Screening, Searching and Confiscation – Advice for head teachers, staff and governing bodies. DFE 2018

<sup>7</sup> Screening, Searching and Confiscation – Advice for head teachers, staff and governing bodies. DFE 2018

<sup>8</sup> Boarding Schools' Association Boarding Briefing Paper No. 15 Conducting a search of a pupil's room, belongings or person (BSA 2015)



## **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 65.

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 Headmaster 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 2<sup>nd</sup> (Year 8), 3<sup>rd</sup> (Year 9) and 4<sup>th</sup> (Year 10) Years as given below. The courses 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**

**3<sup>rd</sup> 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.

**4<sup>th</sup> 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 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 Lower and Middle School 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 house tutor, Housemaster/mistress, School Counsellors, School Nurses, Chaplain, Head of Division, Head of Well-Being or indeed any member of staff with whom the pupil 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, 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.

*September 2013 – following DFE guidance on searching update July 2013*

*August 2014 – Following DFE guidance on Searching update February 2014*

*November 2014 – following publication of BSA BBP No 29*

*August 2015/October 2015*

*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)*

# Appendix 1: Detailed guidance on searching including DFE Guidance

## Introduction

If a pupil is suspected of carrying an unauthorised item (for example, illegal drugs or alcohol) the best approach is to ask the pupil, in the presence of a second adult witness, to turn out their pockets or bag. If the pupil refuses to cooperate the school will have the option of contacting the pupil's parents to discuss the matter.

Quotes from DFE guidance on Searching and Confiscation (2018) are in italics:-

**Key Points – The School will follow the DFE guidelines as set out below when considering the need to search a pupil's room, belongings or person.**

### Searching

- *School staff can search a pupil for any item if the pupil agrees<sup>a</sup>.*
  
- *Head teachers 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*
    - i) *to commit an offence,*
    - ii) *to cause personal injury to, or damage to the property of, any person (including the pupil)*
  - *head teachers 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 printed in the termly Calendar (those mentioned in the section referring to “Drinking, Smoking and Substance Abuse”. This includes any substance or article deemed inappropriate for being in School).**

### Confiscation

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

## Searching with consent

**Schools' common law powers to search:**

*School staff<sup>a</sup> can search pupils **with their consent**<sup>b</sup> for any item.*

**Also note:**

- 1) *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.*
- 2) *Schools should make clear in their school behaviour policy and in communications to parents and pupils what items are banned – see the Pocklington School Rewards and Sanctions Policy and Section 10 in the Pocklington School Rules.*
- 3) *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 – (see Rewards and Sanctions Policy).*
- 4) *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. If the pupil refuses to cooperate, the school will have the option of contacting the pupil’s parents to discuss the matter.*
- 5) *If the pupil is absent from school and cannot give consent, the school will seek to make contact in order to obtain consent. This may include contacting the pupil’s parents or educational Guardians. The School reserves the right to search the pupil’s belongings (eg. locker or bags) if contact cannot be made, after reasonable consideration that the need to search is serious enough to warrant it. Advice may be obtained from the Police if time permits. Advice may be obtained from the Police if time permits. A witness to the search will be present (eg. two members of staff including one of the same sex as the pupil whose belongings are being searched).*

## ***Searching without consent***

**What the law says:**

*What can be searched for?*

- 1) *Knives or weapons, alcohol, illegal drugs and stolen items; and*
- 2) *Tobacco and cigarette papers, fireworks and pornographic images; and*
- 3) *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 property; and*
- 4) *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?*

- 5) *Yes, if you are a head teacher or a member of school staff and authorised by the head teacher.*

*Under what circumstances?*

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

- 7) *There is a limited exception to this rule. You can carry out a search of a pupil of the opposite sex to you and without a witness present, but **only** where you reasonably believe that there is a risk that **serious harm** will be caused to a person if you do not conduct the search immediately and where it is **not reasonably practicable** to summon another member of staff.*

*When can I search?*

- 8) *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.

## **Authorising members of staff**

- 1) *Head teachers should decide who to authorise to use these powers. There is no requirement to provide authorisation in writing.*
- 2) *Staff, other than security staff, can refuse to undertake a search. The law states that head teachers may not require anyone other than a member of the school security staff to undertake a search.*
- 3) *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.*
- 4) *A head teacher can require a member of the school's security staff to undertake a search.*
- 5) *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.*

### **Training for school staff**

- 1) *When designating a member of staff to undertake searches under these powers, the head teacher should consider whether the member of staff requires any additional training to enable them to carry out their responsibilities.*

## **Establishing grounds for a search**

- 1) *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 be suspicious.*
- 2) *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.*
- 3) *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 suspects a pupil of having items such as illegal drugs or stolen property which are later found not to be illegal or stolen.*
- 4) *School staff can view CCTV footage in order to make a decision as to whether to conduct a search for an item.*

## **Searches for items banned by the school rules**

- 1) 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.
- 2) The school rules must be determined and publicised by the head teacher in accordance with section 89 of the Education and Inspections Act 2006. In the case of 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 – a guide for head teachers and school staff' via the link under Associated Resources.*

- 3) Under section 89 and the School Behaviour (Determination and Publicising of Measures in Academies) Regulations 2012, the head teacher must publicise the school behaviour policy, in writing, to staff, parents and pupils at least once a year.

## **Location of a search**

- 1) 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.
- 2) The powers only apply in England.

## **During the search**

### **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.*

## Lockers and desks

- 1) *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.*
- 2) *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.*

## Use of force

- 1) *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.*
- 2) *Staff are referred to the Pocklington Foundation Policy “Use of Reasonable Force – Restraint”.*

## After the search

## The power to seize and confiscate items – general

### What the law allows:

*Schools’ general power to discipline, as set out in 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:

- 1) *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 thought to be a weapon it must be passed to the police.*
- 2) *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.*

### 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 (that is the items identified in paragraph “Searching Without Consent” 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 its possession constitutes a specified offence (i.e. it is extreme or child pornography) in which case it must be delivered to the police as soon as reasonably practicable. Images found on a mobile phone or other electronic device can be deleted unless it is necessary to pass them to the police.
- Where an **article that has been (or could be) used to commit an offence or to cause personal injury or damage to property** is found it may be delivered to the police or returned to the owner. It may also be retained or disposed of.
- Where a member of staff finds **an item which is banned under the school rules** they should take into account all relevant circumstances and use their professional judgement to decide whether to return it to its owner, retain it or dispose of it.
- Any **weapons or items which are evidence of an offence** must be passed to the police as soon as possible.

### **Statutory guidance on the disposal of controlled drugs and stolen items**

- 1) It is up to teachers to decide whether there is a good reason not to deliver stolen items or controlled drugs to the police. In determining what is a "good reason" for not delivering **controlled drugs or stolen items** to the police the member of staff must have regard to the following guidance issued by the Secretary of State.
- 2) **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.**
- 3) 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.
- 4) 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).



## 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](http://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](http://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.

## 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](http://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

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

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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 Headmaster 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: \_\_\_\_\_

**DECLARATION OF PARENTS/GUARDIAN/EDUCATION GUARDIAN**

I/WE the undersigned have read Pocklington School's Policy on **Controlled Drugs and Substances**, and this Appendix. For my/our part, I/we accept the Headmaster'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: -----