



Searching children on school premises

Advice for Hackney schools, college and education settings in response to the Child Q review.

March 2022

The document should be read alongside the follow advice:

- *‘Screening, searching and confiscation - Advice for headteachers, school staff and governing bodies’*
- *‘When to call the police - Guidance for schools & colleges’*

1. Introduction

In 2020, Child Q, a Black female child of secondary school age, was strip searched by female police officers from the Metropolitan Police Service (MPS). The search, which involved the exposure of Child Q's intimate body parts, took place on school premises, without an Appropriate Adult present and with the knowledge that Child Q was menstruating.

The City & Hackney Safeguarding Children Partnership (CHSCP) initiated a Local Child Safeguarding Practice Review (LCSPR) into this incident, which was published in March 2022.

The review made a total of eight findings and 14 recommendations. The full report can be found [here](#).

One of those recommendations was for the Department for Education (DfE) to:

Review and revise its advice on Searching, Screening and Confiscation (2018) to include more explicit reference to safeguarding and to amend its use of inappropriate language.

Until such time that the DfE revise their advice this advice is designed to provide schools, colleges and education settings¹ with additional advice to reflect the findings and recommendations and the adoption of a safeguarding first approach as advocated in the review.

Schools have the power to conduct searches of pupils. They can search for any item with a pupil's consent and search without consent for prohibited and illegal items as set out in DfE advice. All staff undertaking searches should also ensure that they are familiar with the full DfE advice on '[Screening, Searching and Confiscation](#)' before undertaking a search.

Schools should continue to search pupils, in line with guidance, where they have reasonable grounds to do so. This may be the searching individual pupils for prohibited or illegal items but also includes searching groups of pupils or whole classes where it is unclear who may be in possession of a prohibited or illegal item and it is necessary to undertake a wider search.

This advice extracts relevant sections from the DfE advice but provides additional local advice for headteachers and school staff to consider. Extracts from the DfE advice are included in this document in Appendix A to limit the requirement for school staff to switch between different documents.

This advice also highlights key aspects of the National Police Chiefs' Council (NPCC) non-statutory advice '[When to call the police](#)'. The NPCC advice provides helpful advice on factors to consider in relation to calling the police and should be read alongside the DfE advice on searching, screening and confiscation and this local Hackney advice.

This advice also provides more general non-statutory guidance in respect of police powers as they apply to schools and their pupils and advice on professional curiosity, culturally competent safeguarding and resolving professional disagreements.

¹ In this advice the use of the term school also covers colleges and other education settings.

2. Immediate actions schools should take in response to Child Q

In response to publication of the Child Q LCSPR all schools should undertake the following actions:

- Ensure the headteacher, designated safeguarding lead, SLT and governing body have read the Child Q LCSPR and considered the implications of the findings and recommendations.
- Update school policies, procedures and practice to ensure there is a safeguarding first approach to carrying out a search of a pupil on the school premises.
- This should ensure:
 - That schools recognise the safeguarding risks arising from drug usage and/or possession of an illegal item and that a safeguarding response should be initiated. This includes giving strong consideration to making a referral to MASH or Early Help to secure additional support for the child.
 - That the procedure for upward/onward referral, should escalation be required, within the school's response to searches for prohibited or illegal items is clearly understood by all staff required to undertake a search.
 - The decision to call the police in response to a school search is taken by the headteacher.
 - The headteacher is informed whenever the police are on the school premises.
 - The head teacher or a member of the senior leadership team nominated by the headteacher acts as a point of contact for any police involvement whilst on the school premises.
 - That a member of staff remains with the pupil at all times the police are on site.
 - That any search, proposed by police, that involves exposing intimate parts of the body does not take place on school premises.
- Set out the basis for informing parents/carers when a search has been carried out either by school staff or the police.
- Implement recording systems to monitor searches carried out by school staff.

3. Acting with a duty of care

Whilst children are attending school, staff have a duty of care toward the children they are supervising.

When acting towards children, school staff members must act as a reasonably prudent parent would act in order to safeguard pupils within their care. The headteacher is responsible for delegating and monitoring this duty.

4. Hackney advice for searching pupils in school

This advice supplements the DfE advice on screening, searching and confiscation and should be read alongside that document.

The decision for school staff to conduct a search either with or without consent

- School staff have the power to search pupils or groups of pupils, including without consent where they have reasonable grounds for believing they are in possession of a prohibited or illegal item. Where a group is searched, the school should be clear about what the reasonable grounds are for this group being selected for a search.
- In establishing the grounds for a search, safeguarding should be at the forefront of the person's mind when searching for an illegal item or an item prohibited by the school.
- A safeguarding first approach not only relates to the requirement to safeguard others in the school but also the pupil who may be in possession of a prohibited or illegal item, which may be a sign of extra familial risk or harm. In these cases strong consideration should be given to making a referral to MASH or Early Help to secure additional support for the child.
- The school's designated safeguarding lead (DSL) should be notified of all searches so that any risks arising from the decision to conduct a search can be assessed.
- Concerns about drug usage or possession of illegal items highlight a concern for the child's general safety and wellbeing. These concerns should be discussed with parents/carers and consideration should be given to a MASH or Early Help referral.
- Searches for prohibited or illegal items may be conducted as part of an investigation into possible breaches of the school's behaviour policy that may result in a suspension or exclusion. The threshold for a suspension and exclusion is 'on the balance of probabilities' not 'beyond reasonable doubt'.

Searches by school staff that result in no illegal items being found

- In nearly all circumstances it would not be reasonable or proportionate to take further action.
- However, if the school still has sufficient reason to believe that the pupil has concealed an illegal item about their body then the police may be called.
- However, this should only be done in **exceptional** circumstances such as when the possible concealment of an illegal item poses a potential **immediate** risk to the safety of the pupil or others in the school.
- The decision to call the police in these circumstances should only be made by the head teacher and should be based on a need to safeguard the pupil or others in the school.
- If police are called in response to a pupil thought to be in possession of an illegal item the headteacher should be aware that they are required to investigate that as a possible crime.
- Headteachers, in making decisions in response to a search undertaken by school staff, must be

aware of adultification bias in regards to some children and assume just because they may look or present as older or more mature than they actually are, that they should be treated accordingly. Decisions should be appropriate to the actual age of the pupil.

- In the majority of cases, prior to making a decision to call the police, the headteacher when acting in response to a suspected illegal item, should endeavour to discuss their concerns with the pupil's parent/carer first. The exception to this is when it is not considered in the best interests of the pupil to do so.
- If the police are called consideration should be given to asking the parent/carer to attend the school to meet with the police.

Advice to schools in respect of police powers to conduct thorough and intimate searches

- A more thorough search is where a police officer considers it necessary that the person removes more than an outer coat, jacket or gloves but does not reveal intimate parts of the body as part of the search. Such searches can be conducted by the police if necessary on reasonable grounds.
- Headteachers should be aware of the guidance to police on thorough and intimate searches as set out in the PACE Codes.
- [Paragraph 3.6 of PACE Code A](#) states:
 - *Where on reasonable grounds it is considered necessary to conduct a more thorough search (e.g. by requiring a person to take off a T-shirt), this must be done out of public view, for example, in a police van unless paragraph 3.7 applies, or police station if there is one nearby.*
 - *Any search involving the removal of more than an outer coat, jacket, gloves, headgear or footwear, or any other item concealing identity, may only be made by an officer of the same sex as the person searched and may not be made in the presence of anyone of the opposite sex unless the person being searched specifically requests it.*
- Searches that involve exposing intimate parts of the body are where a person removes all or most of their clothing. They are one of the most intrusive forms of search and must only be used where it is necessary and reasonable to do so. .
- [Paragraph 3.7 of PACE Code A](#) this states:
 - *Searches involving exposure of intimate parts of the body must not be conducted as a routine extension of a less thorough search, simply because nothing is found in the course of the initial search.*
 - *Searches involving exposure of intimate parts of the body may be carried out only at a nearby police station or other nearby location which is out of public view (but not a police vehicle).*
- Police officers who are considering a search that involves exposing intimate body parts must consult a supervisor prior to carrying out a search, to explore why it is necessary and proportionate in the circumstances.
- When carrying out a strip search that involves exposure of intimate body parts on a juvenile or vulnerable adult the police are required to ensure there is an appropriate adult present.

- [Paragraph 11 of Annex A of PACE Code C](#) provides advice to police. This states:
 - *Except in cases of urgency, where there is risk of serious harm to the detainee or to others, whenever a strip search involves exposure of intimate body parts, there must be at least two people present other than the detainee, and if the search is of a juvenile or vulnerable person, one of the people must be the appropriate adult.*
 - *Except in urgent cases as above, a search of a juvenile may take place in the absence of the appropriate adult only if the juvenile signifies in the presence of the appropriate adult that they do not want the appropriate adult to be present during the search and the appropriate adult agrees. A record shall be made of the juvenile's decision and signed by the appropriate adult. The presence of more than two people, other than an appropriate adult, shall be permitted only in the most exceptional circumstances*

Advice to headteachers in respect of police searches

- The first and primary responsibility of the headteacher is to ensure the child is safeguarded.
- If, following a school search in which no illegal items were found, the headteacher decides it is necessary to call the police they should be conscious that a more thorough or intimate search may be the proposed police action.
- Headteachers should endeavour to discuss this with parents/carers before calling the police and it may be appropriate to invite them to come to the school in the first instance..
- The headteacher should agree with the police attending the scope of actions. If such a search is proposed by the police the headteacher should discuss this with the police officers and ensure any actions are necessary and proportionate. They must ensure the interests of the child are safeguarded.
- Once the police have been called the headteacher (or a nominated member of the senior leadership team) is responsible for liaising with the parent/carer and the police. They are responsible for ensuring the pupil is safeguarded and their rights are respected.
- This member of staff should be prepared to question the police's decisions and advocate on behalf of the pupil to ensure a reasonable and proportionate outcome.
- Headteachers should ensure a member of staff remains with the pupil for the entire time the police are involved on the school premises.
- Headteachers should take steps to ensure that thorough or intimate searches that involve exposing intimate body parts do not occur on the school premises. This is not an appropriate place for such searches to be carried out.
- Such searches, if required, should ideally take place at a police station and must have an 'appropriate adult' present. Children cannot be compelled to attend a police station, unless they have been arrested. Headteachers need to be aware that an arrest may be the consequence of the decision to call the police in response to a search by school staff.
- The headteacher should take steps to ensure the parent/carer is informed of which police station the child is going to.
- The headteacher has a duty of care towards the child and must act at all times to ensure the safety, wellbeing and general interests of the pupil whilst they are on the school premises.

Advice when an illegal item is found on a pupil

- In responding to the possibility of a prohibited or illegal item in the school they should, in the first instance, consider the appropriate safeguarding response in line with their policy and procedures for safeguarding children.
- Possession of an prohibited or illegal item (such as possession of a weapon or illegal drugs) may be a sign or extra familial risk or harm and therefore a referral to appropriate services (eg. MASH or Early Help) should be considered.
- It may also be necessary to consider a disciplinary or police response to a prohibited or illegal item but this should be done in parallel to a safeguarding response, not instead of one.
- Advice on an appropriate safeguarding response to a prohibited or illegal item is available from the MASH Consultation Line by phoning 0208 356 5500.
- If a pupil is found in possession of a prohibited or illegal item headteachers should endeavour to discuss next steps with parents/carers.
- The law does not require schools to divulge to the police the name of a pupil from whom drugs have been taken.²

Advice regarding the term ‘child pornography’ and ‘pornographic image of a child’

- The DfE advice uses the terms ‘child pornography’ and ‘pornographic image of a child’. These are outdated terms that should more accurately be described as images of child abuse.

Advice in respect of informing parents/carers of searches by school staff

- Whilst the DfE advice states that it is not necessary to inform parents/carers of a search of their child it would be good practice to endeavour to do so in the following circumstances:
 - All searches that are carried out without the consent of the pupil
 - All searches where possession of an illegal item is suspected
 - All searches where a prohibited or illegal item is found
 - All searches that result in a referral to MASH; disciplinary action and/or the police becoming involved
- Parents/carers should be informed why the search was undertaken and what the outcome was.
- It is not necessary to seek permission before the search is carried out but they should be informed of the outcome of the search as soon as practicable after the search has been completed

Advice to headteachers in respect of recording searches

- Whilst the DfE advice states there is no requirement to record searches undertaken by school

² [DfE and ACPO drug advice for schools](#)

staff it would be good practice to do so.

- All searches should be recorded in the schools safeguarding reporting system. This will allow designated safeguarding leads (DSLs) to identify possible risks and initiate a safeguarding response if required.
- Records of searches should cover the following:
 - Date, time and location of the search
 - Details of the pupil searched
 - Details of the searcher and any other adults or pupils present
 - Whether the search was with or without consent
 - Prohibited or illegal item being search for
 - Reason for having grounds to search
 - Was a prohibited or illegal item found
 - Any further actions/outcome
- Information on the use of searches in school should be reported to the governing body on a termly basis

Advice to governing bodies in respect of searches carried out by school staff

- Governing bodies should oversee the use of the power to search pupils in their school.
- They should expect a termly report from the headteacher providing an overview of the use of search powers in their school. As well as the grounds for conducting a search and the outcome, the headteacher should also report on pupils characteristics to ensure those with protected characteristics are not disproportionately being searched by staff.
- This is part of the governing body's compliance with the Public Sector Equality Duty.

5. National Police Chiefs' Council advice - When to call the police

The National Police Chiefs Council (NPCC) has produced non-statutory advice for headteachers, DSLs and senior leaders in schools, colleges and education settings in England. It has been produced by the NPCC working alongside the DfE, Home Office and PSHE Association.

The advice covers incidents where students have potentially committed a crime. It provides advice on what schools should bear in mind when considering contacting the police. It covers the following situations:

- Assault
- Criminal damage

- Cyber crime
- Drugs
- Harassment
- Sexual offences
- Theft
- Weapons

Key extracts from the NPCC advice can be found in Appendix B for ease of reference. However, the full advice can be found [here](#), which includes decision making flowcharts for each of the above incidents.

Headteachers, DSLs and those involved in making decisions about whether or not to call the police should read the full advice.

6. Police powers in relation to schools

Right to enter school premises³

Entry under warrant

If an offence is suspected and the school refuses to co-operate, the police can apply to a magistrate for a warrant to enter and search school premises.

The magistrate must be satisfied that there are reasonable grounds for believing certain conditions exist (eg a serious arrestable offence has been committed) and that access would be refused or that the purpose of the search would be frustrated.

If the police have a warrant for search or arrest, the Head must allow it to be executed. To resist would be obstruction and would constitute an offence.

The Head, or the senior member of staff present, must ask to see the warrant so that they can check exactly what the document authorises the police to do. They must also check whether there are any restrictions on police powers (for example, what parts of the premises can be searched or what the police can remove).

Entry without a warrant

Police have a number of powers to enter premises without a warrant, eg:

- *to arrest a person for an arrestable offence, eg possessing or selling drugs or committing a sexual offence*
- *to prevent death or injury*

³ Information obtained from <https://app.croneri.co.uk/topics/police-and-schools/indepth>

- to prevent serious damage to property
- to deal with or prevent a breach of the peace.

Entry onto private property in order to prevent a breach of the peace will almost always be at the invitation of the owner.

Therefore, if the police are exercising their statutory powers, a Head should not resist, since to do so could result in the offence of obstructing a constable in the execution of his or her duty.

Police officers have a right under the Offensive Weapons Act 1996 to enter school premises to search for articles with a blade or point and other offensive weapons, if they have reasonable grounds for suspecting that such articles are in the school. If found, such weapons can be seized by the police.

Police Interviews⁴

A child or young person should not be interviewed or arrested at school if such action can possibly be avoided. If it is essential to conduct the interview at school, it should be done only with the consent, and in the presence, of the Head or the Head's nominee. A Head must be satisfied that such an interview is necessary and by ensuring that this is so will not be guilty of wilfully obstructing a police officer in the execution of his or her duty. Indeed, for Heads not to satisfy themselves on that matter would be a failure to discharge their duty in loco parentis.

The Codes of Practice make it clear that as far as practical, children and young persons under the age of 17, whether suspected of crime or not, usually should only be interviewed in the presence of a parent or guardian, or in their absence, someone who is not a police officer.

A reasonable time should be allowed to enable an appropriate adult to be present at the interview. Provided that the suspected offence does not involve the educational establishment, the Head or a nominee can act as the appropriate adult for purposes of the interview if waiting for a parent or guardian would cause unreasonable delay.

If the police have reasonable grounds for believing that a pupil has committed an offence and wish to interview him or her, they must formally caution the pupil before commencing the interview. Otherwise, they will fail to comply with the Police and Criminal Evidence Act 1984.

If the police ask to question a child, the Head should check that the child freely agrees to give the information. If the pupil is female, a senior female member of staff must be present. There should also be an assurance from the police that the child will not be charged with an offence at the school or arrested on school premises. If no such assurance is given, the Head should initially refuse to allow the interview to take place.

If the police ignore the Head's refusal to produce a pupil or to allow questioning and insist on seeing the child, the Head should:

- accede under protest
- remain present throughout the questioning

⁴ Information obtained from <https://app.croneri.co.uk/topics/police-and-schools/indepth>

- *note the officer's number*
- *note the events that take place*
- *inform the school governors at the earliest opportunity to explain what has happened; in the case of a maintained school the local authority (LA) should also be informed, as should trustees and proprietors of academies and independent schools, where appropriate*
- *submit a detailed report of the incident to the LA, trustees, proprietors or governors as appropriate.*

Appendix A

Extract from the DfE advice - Screening, Searching & Confiscation

Below is an extract from the DfE advice, 'Screening, Searching and Confiscation'. The full guidance can be found [here](#).

Key points

- *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:*
 - *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.*

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 cooperate 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.*

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.*

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.*

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.*

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.*

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.*

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.*

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**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

- *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.*

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.*

After the search

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.*

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 12 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.*

Statutory advice 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 advice 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).*

Statutory advice 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 advice 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.*

Also note:

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

Statutory advice 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 advice 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).*

Statutory advice 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 advice 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.*

Also note:

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

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 B

Extract from the National Police Chiefs' Council advice 'When to call the police - Advice for schools and colleges'

Below is an extract from the NPCC advice, 'When to call the police - Guidance for schools and colleges'. The full guidance can be found [here](#).

Police assistance is required

All other non-emergency incidents should be reported using 101 or online reporting methods, or through existing arrangements, for example, to a safer schools officer. The call will be logged by an operator and depending on the nature of the incident the appropriate response made.

Contact with police should ideally be made by a single point of contact from the school. This may be the headteacher or the designated safeguarding lead. Every school and college should have a designated safeguarding lead who will provide support to staff to carry out their safeguarding duties and who will liaise closely with other services such as children's social care. The designated safeguarding lead (and any deputies) are most likely to have a complete picture of safeguarding and be the most appropriate person to advise on the response to safeguarding concerns.

Having a single point of contact between a school or college and the police helps increase consistency in referrals.

In an emergency dial 999.

This should be used if:

- - There is a danger to life or
- - Risk of serious injury or
- - A serious crime is in progress or about to happen.

Any member of staff witnessing such an incident should be empowered to dial 999 as they will be able to give the most accurate account of the incident.

Making a decision to involve the police

When an incident occurs in which a crime has or may have been committed, the school or college need to consider whether to involve the police. Many incidents can be dealt with and resolved internally. The school or college behaviour policy will give advice on how to deal with and record such incidents.

This advice document outlines the factors which school or college leaders should consider when deciding to involve the police. These considerations would inform whether the police would expect and need to be involved.

All concerns, discussions and decisions made, and the reasons for those decisions, should be recorded in writing. If in doubt about recording requirements, staff should discuss with the designated safeguarding lead (or deputy).

Things to consider

In making a decision to involve the police it is important that the school or college ensure a balance is struck between the needs of the students involved and the needs of other students and the wider school or college community.

It is not always clear initially who is involved in an incident and in what capacity. The victim in any incident should be supported and protected as a priority. Those suspected of being the offender will also need to be supported. There will often be significant circumstances in a young person's life that are contributing factors to an incident and it is important that they are taken into consideration.

The seriousness of the incident will be a judgement call for the school or college. In making this decision the level of harm and the circumstances leading to the incident would need to be carefully considered.

Any aggravating factors which contribute to making the incident and subsequent level of harm more serious would be relevant in making a decision on whether or not to involve the police.

Ideally the decision as to whether the school or college deal with an incident internally or pass it over to the police needs to be made at the initial stage, by gathering only enough information to establish the facts of the case.

The school or college should be aware that they may not be aware of all circumstances leading to or connected to the incident i.e. students behaviour or involvement outside school or within their family. Contacting the police or other agencies may allow a further picture to be obtained, which assists in making informed decisions.

When the decision is made that the school or college will deal with the incident internally, it remains the responsibility of the school or college to investigate and resolve it in accordance with their behaviour policy. Parental cooperation should be maintained throughout and the incident and actions recorded.

The designated safeguarding lead (or a deputy) should be leading the schools or college's response and should be aware of the local process for referrals to children's social care and making referrals to the police.

Schools and colleges should be aware that if a referral is made to children's social care, this may result in a subsequent referral to the police.

Many schools and colleges have close relationships with their local police force and many police forces have a permanent or semi-permanent police presence in schools and colleges. The designated safeguarding lead (or deputy) should be liaising closely with the local police when an incident in which a crime may have been committed occurs.

Crimes reported to the police

When the decision is made to report an incident to the police for investigation, due to the seriousness of the incident or for other aggravating circumstances, the school or college should cease their own

investigation, having asked only enough questions to establish the basic facts of the incident. Every effort should be made by the school or college to preserve any relevant evidence.

Initial enquiries undertaken by the school or college should be fully documented as they may be required if the matter goes to court. This includes recording questions asked to young people and their replies.

Where a crime is reported to the police, it will be recorded as a crime and an investigation will commence.

Whilst the age of criminal responsibility is ten, if the alleged perpetrator of a crime is under ten, it may still be necessary to involve the police. The police will take a welfare approach in these cases rather than a criminal justice approach.

Arresting on school or college premises

Arresting on school or college premises should be avoided unless the seriousness and urgency of an incident deems the arrest absolutely necessary. The head teacher should always be made aware of the situation and the arrest should be conducted as discreetly as possible.

In any incident where a crime may have occurred schools and colleges should consider:

- *The seriousness of the incident. Whether an incident is 'serious' will be a matter of judgement and will depend on the type of incident.*
- *Whether there are any aggravating factors. These factors increase the level of risk, or highlight the need for a wider investigation and the need for the involvement of a range of agencies as well as the police*
- *Whether the young people involved have any vulnerabilities.*
- *Whether this could be part of a pattern of behaviour also occurring in the community, in which case the police will want to be involved.*

The context of the offence is really important and the school or college are in the best position to gather together all the relevant information prior to making a decision whether or not to report to the police. The decision and the rationale behind it should both be recorded.

Appendix C

Supplementary safeguarding advice

Advice on escalating professional disagreements

Differences of opinion, concerns and issues can arise for practitioners at work and it is important they are resolved as effectively and swiftly as possible.

Having different professional perspectives within safeguarding practice is a sign of a healthy and well-functioning partnership. These differences of opinion are usually resolved by discussion and negotiation between the practitioners concerned. It is essential that where differences of opinion arise they do not adversely affect the outcomes for children, young people or adults and are resolved in a constructive and timely manner.

Differences could arise in a number of areas of multi-agency working as well as within single agency working. Differences are most likely to arise in relation to:

- criteria for referrals;
- outcomes of assessments;
- roles and responsibilities of workers;
- service provision;
- timeliness of interventions;
- information sharing and communication.

Safeguarding is everyone's responsibility and front-line staff need confidence in talking with each other about decisions that have been made, discussing any concerns regarding those decisions and where there isn't agreement; escalating those concerns as appropriate.

Remember, equally important is the culture of how we work; and it is vital that front-line staff are encouraged to remain professionally curious and to raise issues where they feel that their concerns for children and young people are not being addressed.

The CHSCP advice on resolving professional disagreements can be found [here](#).

Advice on professional curiosity in education settings

Staff in schools, colleges and education settings are perhaps best placed to notice how children and young people are because they have contact with them on an almost daily basis. School staff can see changes – such as in appearance, behaviour, alertness or appetite – and provide a degree of monitoring of the child's welfare; in effect, they can be the 'eyes' for other practitioners working with the young person.

There are many examples of good practice in education where staff were alert to concerns and were able to demonstrate professional curiosity and awareness of possible maltreatment and cumulative risk.

Being professionally curious enables practitioners to challenge parents and explore a child's vulnerability or risk while maintaining an objective, professional and supportive manner. This is not an easy balance.

It can be difficult for children to express concerns about their own well being, so practitioners have a responsibility to create an environment in which they can do so. Schools should be careful of 'organisational deafness' which minimises the chances of really hearing what young people are saying, for example in relation to concerns about their friends.

Professionals (particularly school staff) should be curious and give sufficient credence to occasions when information is shared by young people.

Therefore, when dealing with children it is essential for all staff in schools to keep safeguarding and the forefront of their practice and always consider possible safeguarding implications.

Advice on culturally competent safeguarding

There is evidence that culturally competent safeguarding practice enhances children and young people's well being. An understanding of how variations in child rearing and caring practices can contribute to prevention and early intervention.

Interventions have the potential to be as a result of stereotyping, lack of awareness among practitioners of how various categories of abuse are manifested in some communities, coupled with a general lack of awareness of cultural practices.

It is important therefore that practitioners are sensitive to differing family patterns and lifestyles and to child rearing and caring patterns that vary across different racial, ethnic and cultural groups. At the same time they must be clear that child or adult abuse cannot be condoned for religious or cultural reasons.

All practitioners working with children, young people and families whose faith, culture, nationality and history differs significantly from that of the majority culture, must be professionally curious and take personal responsibility for informing their work with sufficient knowledge (or seeking advice) on the particular culture and/or faith by which the child, young person, adult and their family or carers lives their daily life.

Practitioners should be curious about situations or information arising in the course of their work, allowing the family to give their account as well as researching such things by discussion with other practitioners, or by researching the evidence base. Examples of this might be around attitudes towards, and acceptance of, services e.g. health; dietary choices; education provision or school attendance.

In some instances reluctance to access support stems from a desire to keep family life private. In many communities there is a prevalent fear that social work practitioners will 'take your children away'. There may be a poor view of support services arising from initial contact through the immigration system, and, for some communities – particularly those with insecure immigration status – an instinctive distrust of the state arising from experiences in their country of origin.

Practitioners must take personal responsibility for utilising specialist services' knowledge. Knowing about and using services available locally to provide relevant cultural and faith-related input to

prevention, support and rehabilitation services for the child, young people or adults (and their family) will support practice.

This includes:

- Knowing which agencies are available to access;
- Having contact details to hand;
- Timing requests for expert support and information appropriately to ensure that assessments, care planning and review are sound and holistic.

Appendix D

Links to additional advice

[DfE and ACPO drug advice for schools:](#)

[Searching, Screening and Confiscation Guidance:](#)

[Use of Reasonable Force Guidance :](#)

[Appropriate Adult Guidance:](#)

[The Hackney Child Wellbeing Framework:](#)

[Young Hackney Substance Misuse Service:](#)

[CHSCP advice on escalation of concerns and professional disagreements:](#)

[CHSCP video re consent for referrals to MASH:](#)

[NPCC Advice - When to call the police](#)