



The
Maltby Learning Trust

MLT Anti Bullying Policy (Primary)

Date Last Reviewed: November 2016
Reviewed by: Executive Principal (Primary)
Approved by: CEO
Next Review Due: November 2018

1. INTRODUCTION

- 1.1 The Maltby Learning Trust is committed to providing pupils in all academies with a caring, friendly and safe environment for all pupils so that they can learn in a relaxed and secure atmosphere.
- 1.2 Bullying of any kind is unacceptable at a Maltby Learning Trust School. If bullying does occur, incidents will be dealt with promptly and effectively.

2. LEGAL FRAMEWORK

- 2.1 The Education and Inspections Act 2006
Section 89 of the Education and Inspections Act 2006 provides that all schools must have measures to encourage good behaviour and prevent all forms of bullying amongst pupils. These measures should be part of the academy's behaviour policy which must be communicated to all pupils, school staff and parents.

- 2.2 The Equality Act 2010

The Equality Act 2010 replaces previous anti-discrimination laws with a single Act. A key provision is a new public sector Equality Duty, which came into force on 5 April 2011. It replaces the three previous public sector equality duties for race, disability and gender, and covers age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Duty has three aims. It requires public bodies to have due regard to the need to:

- eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the act;
- advance equality of opportunity between people who share a protected characteristic and people who do not share it;
- Foster good relations between people who share a protected characteristic and people who do not share it.

Maintained schools and Academies are required to comply with the new Equality Duty. Part 6 of the Act makes it unlawful for the responsible body of a school to discriminate against, harass or victimise a pupil or potential pupil in relation to admissions, the way it provides education for pupils, provision of pupil access to any benefit, facility or service, or by excluding a pupil or subjecting them to any other detriment. In England and Wales Part 6 of the Act applies to maintained schools and Academies and to other independent schools.

- 2.3 Safeguarding children and young people Under the Children Act 1989
A bullying incident should be addressed as a child protection concern when there is 'reasonable cause to suspect that a child is suffering, or is likely to suffer, significant harm'. Where this is the case, the academy staff should report their concerns to their local authority children's social care. Even where safeguarding is not considered to be an issue, academies may need to draw on a range of external services to support the pupil who is experiencing bullying, or to tackle any underlying issue which has contributed to a child engaging in bullying.

2.4 Criminal law

Although bullying in itself is not a specific criminal offence in the UK, it is important to bear in mind that some types of harassing or threatening behaviour – or communications – could be a criminal offence, for example under the Protection from Harassment Act 1997, the Malicious Communications Act 1988, the Communications Act 2003, and the Public Order Act 1986. If school staff feel that an offence may have been committed they should seek assistance from the police. For example, under the Malicious Communications Act 1988, it is an offence for a person to send an electronic communication to another person with the intent to cause distress or anxiety or to send an electronic communication which conveys a message which is indecent or grossly offensive, a threat, or information which is false and known or believed to be false by the sender.

3. DEFINITION

Bullying is defined in 'Tackling and Preventing Bullying' DfE 2014 as '*behaviour by an individual or group, repeated over time, that intentionally hurts another individual or group either physically or emotionally.*'

Bullying can take many forms (for instance, cyber-bullying via text messages or the internet), and is often motivated by prejudice against particular groups, for example on grounds of race, religion, gender, sexual orientation, or because a child is adopted or has caring responsibilities. It might be motivated by actual differences between children, or perceived differences. Stopping violence and ensuring immediate physical safety is obviously an academy's first priority but emotional bullying can be more damaging than physical; teachers and academy's have to make their own judgements about each specific case. Many experts say that bullying involves an imbalance of power between the perpetrator and the victim. This could involve perpetrators of bullying having control over the relationship which makes it difficult for those they bully to defend themselves. The imbalance of power can manifest itself in several ways, it may be physical, psychological (knowing what upsets someone), derive from an intellectual imbalance, or by having access to the support of a group, or the capacity to socially isolate. It can result in the intimidation of a person or persons through the threat of violence or by isolating them either physically or online.

Bullying can be a one-off or sustained – damaging either way. It can be painfully obvious, but it can also be surreptitious and subtle. It can also be one pupil against another or involve several pupils.

3.1 - Cyber-bullying

The rapid development of, and widespread access to, technology has provided a new medium for 'virtual' bullying, which can occur in or outside school. Cyber-bullying is a different form of bullying and can happen at all times of the day, with a potentially bigger audience, and more accessories as people forward on content at a click.

The wider search powers included in the Education Act 2011 give teachers stronger powers to tackle cyber-bullying by providing a specific power to search for and, if necessary, delete inappropriate images (or files) on electronic devices, including mobile phones. See Appendix 2 for DfE advice on this issue.

4.0 OFF SITE BULLYING

4.1 Teachers have the power to discipline pupils for misbehaving outside the academy premises "to such an extent as is reasonable". This can relate to any bullying incidents occurring anywhere off the academy premises, such as on academy or public transport,

outside the local shops, or in a town or village centre. Where bullying outside the academy is reported to academy staff, it should be investigated and acted on. The Principal should also consider whether it is appropriate to notify the police or anti-social behaviour coordinator in their local authority of the action taken against a pupil. If the misbehaviour could be criminal or poses a serious threat to a member of the public, the police should always be informed. In all cases of misbehaviour or bullying the teacher can only discipline the pupil on school premises or elsewhere when the pupil is under the lawful control of the staff member.

The guidance document '*Behaviour and discipline in schools: Advice for headteachers and school staff*' (DfE - January 2016) states that schools:

Subject to the behaviour policy, teachers may discipline pupils for:

Misbehaviour when the pupil is:

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

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

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

The Maltby Learning Trust will apply academy discipline and behaviour policies, including in cases of bullying, in these circumstances.

5. RESPONSIBILITIES

5.1 - Maltby Learning Trust Board

Have the responsibility of monitoring bullying incidents across the whole Trust, ensuring all academies treat bullying equally seriously and follow the robust procedures laid out in this policy. They will ensure academies which either appear to be under reporting bullying, or have too high an incidence of bullying, are held to account.

5.2 – Executive Leaders

Are responsible for ensuring that there is a consistent approach to combating bullying across all Trust academies, informing governors and holding leaders to account for the effectiveness of their academy.

5.3 – Academy Leaders

Are responsible for ensuring robust systems and processes, which meet the Trust expectations laid out in this policy, are in place. They should ensure that parents, staff and pupils know the importance which is placed on ensuring the academy is a safe and caring place and that bullying will not be tolerated. They should ensure that robust reporting systems are in place and that staff are empowered to investigate bullying and support children when it is identified. Leaders are responsible for ensuring a warm, open and caring ethos pervades the academy.

5.4 – Local Governing Body

Is responsible for holding the school leaders to account for the performance in this area, ensuring robust mechanisms for the reporting of bullying are in place, that leaders take bullying seriously and are not complacent and that pupils and parents feel confident in the approaches adopted by the academy.

5.5 – Academy Staff

Are responsible for being fully aware of the approach taken by the academy to combatting bullying. All staff should be vigilant for bullying, be open and receptive to any child reporting bullying – ensuing all reports are taken seriously, reported and investigated. Staff are expected to model positive behaviours and be good examples of how to deal with disputes and conflict by positively dealing with any pupils without using raised voices or intimidating behaviour.

5.6 – Parents

Are responsible for reporting any suspicion they have that their child is being bullied to the academy as soon as possible. They are also responsible for encouraging good behavior and helping the school to be proactive in preventing bullying occurring.

5.7 – Pupils

Are responsible for reporting any bullying they see and challenging negative behaviours when they see it. There is an expectation that pupils show good behavior at all times.

6. INDICATORS THAT A PUPIL MAY BE BEING BULLIED

6.1 We recognise that many young people may be frightened or reluctant to inform an adult if they are being bullied. The academy should work hard to demonstrate to pupils that allegations of bullying will be treated seriously and action taken if they are proven to be correct. An open ethos will be adopted to ensure that children know how to report bullying and who to report it to. Staff will also be vigilant and highly aware of the possibility of bullying occurring.

6.2 Despite the academy ethos, a pupil who is being bullied may:

- Be frightened of walking to or from the academy;
- Be unwilling to go to the academy;
- Begin to perform poorly in the academy;
- Become withdrawn or tearful;
- Have books, clothing or possessions which are damaged or go missing;
- Become distressed / stop eating;
- Cry easily / have nightmares;
- Become disruptive or aggressive towards adults or other young people at home or academy;
- Begin stealing (to pay the bully).

6.3 Members of staff may see:

A persistent deterioration in a young person's behaviour or mood they should discuss this with the pupil's class teacher, the Principal or Pastoral Leader and/or have a word with the pupil in private asking whether anything is troubling them and whether they are experiencing bullying.

6.4 Parents:

Are encouraged to discuss concerns about a pupil's well-being with their class teacher as soon as possible.

7. AIMS OF OUR ANTI-BULLYING STRATEGY

7.1 Within the Maltby Learning Trust we endeavour:

- To ensure all staff, the Governing body, pupils and parents have an understanding of bullying and its consequences; and the knowledge that it is not acceptable in any Maltby Learning Trust academy;
- To create an atmosphere of trust between staff and pupils where pupils feel they are listened to and are willing to tell an adult if they are being bullied;
- To ensure that there are clear procedures and systems for reporting and recording bullying, which are understood and followed by all staff;
- To closely monitor pupils who have reported bullying. To ensure pupils and staff learn to keep themselves and others safe;
- To teach pupils to respect the differences between groups of people within the academy's community;
- To offer support and education to those pupils who are both the victims and perpetrators of bullying, providing them with a range of strategies which they can use if they are at risk of bullying others or are being bullied themselves;
- To encourage 'bystanders' to bullying incidents (adults and children) both to intervene when appropriate to stop the incident and to report it to the pupil's class teacher/appropriate staff member so that action can be taken.
- To support and train all staff members in identifying bullying incidents and in dealing with them confidently and effectively.
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8. COMBATTING BULLYING

Within the Maltby Learning Trust we know that an academy's response to bullying should not start at the point at which a child has been bullied. The best academies develop a

more sophisticated approach in which academy staff proactively gather intelligence about issues between pupils which might provoke conflict and develop strategies to prevent bullying occurring in the first place.

8.1 – Whole Academy Approaches

The chances of bullying occurring can be substantially reduced and the speed of detection when it does increased by academies taking a cohesive whole school approach. Within the Maltby Learning Trust, academy's will:

Involve pupils. All pupils understand the school's approach and are clear about the part they can play to prevent bullying, including when they find themselves as bystanders

Regularly evaluate and update their approach to take account of developments in technology, for instance updating 'acceptable use' policies for computers

Implement disciplinary sanctions. The consequences of bullying reflect the seriousness of the incident so that others see that bullying is unacceptable

Openly discuss differences between people that could motivate bullying, such as religion, ethnicity, disability, gender or sexuality. Also children with different family situations, such as looked after children or those with caring responsibilities. Schools can also teach children that using any prejudice based language is unacceptable

Use specific organisations or resources for help with particular problems. Academies can draw on the experience and expertise of anti-bullying organisations with a proven track record and/or specialised expertise in dealing with certain forms of bullying

Provide effective staff training. Anti-bullying policies are most effective when all academy staff understand the principles and purpose of the school's policy, its legal responsibilities regarding bullying, how to resolve problems, and where to seek support. Academies can invest in specialised skills to help their staff understand the needs of their pupils, including those with special educational needs and/or disability (SEND) and lesbian, gay, bisexual and transgender (LGB&T) pupils

Work with the wider community such as the police and children's services where bullying is particularly serious or persistent and where a criminal offence may have been committed. Successful academies also work with other agencies and the wider community to tackle bullying that is happening outside the academy

Make it easy for pupils to report bullying so that they are assured that they will be listened to and incidents acted on. Pupils should feel that they can report bullying which may have occurred outside the academy including cyber-bullying

Create an inclusive environment. Academies should create a safe environment where pupils can openly discuss the cause of their bullying, without fear of further bullying or discrimination

Celebrate success. Celebrating success is an important way of creating a positive ethos in the academy around the issue.

8.2 - Prevention through Ethos

Academies within the Maltby Learning Trust use a variety of strategies to prevent bullying occurring these include, but are not restricted to:

- Providing open channels for pupils to talk about worries or disagreements before they develop into bullying. Having well understood channels for any child, staff member or parent to report concerns over bullying;
- Adequate supervision of the academy site, especially toilets, lunch queues and distant areas, including if appropriate the academy gates at the beginning and end of the day;

- Increased supervision levels and, as appropriate, safe areas for pupils who feel threatened at break and lunch times;
- Rewarding non-aggressive behaviour;
- Encouraging co-operative behaviour;
- The use of Pastoral Support for those young people experiencing interpersonal and peer relationship difficulties;
- Close monitoring of young people with Special Educational Needs;
- Sharing proven good practice with colleagues.

Maltby Learning Trust academies also have clearly stated, well understood values of respect for staff and other pupils, an understanding of the value of education, and a clear understanding of how our actions affect others

These values are reinforced by staff and older pupils who set a good example to the rest.

9. EDUCATION

9.1 Pupils will be given the opportunity to increase their awareness of both the effects and consequences of bullying through some or all of the following:

- Talking to pupils about issues of difference in lessons, through dedicated events or projects, and through assemblies.
- Creating an ethos of good behaviour where pupils treat one another and the academy staff with respect because they know that this is the right way to behave.
- Promotion of anti-bullying messages through assemblies / Academy Student Leadership Team / Curriculum Areas;
- Class discussions / group work sessions on issues such as friendship, prejudice, assertiveness, coping strategies;
- Firm, fair and appropriate disciplinary procedures;
- Greater interaction between classes/Year Groups.
- Focused, targeted work in Pastoral support groups.
- Discussions of the importance of reporting bullying and not suffering as a victim

9.2 - Education of Parents/Carers

Parents/Carers should be confident that any allegation of bullying will be dealt with seriously and concerns investigated and acted upon. Successful schools foster positive relationships with parents and are able to both listen to their concerns and challenge them where their child is the perpetrator. Parents should be absolutely confident that the academy will take any complaint about bullying seriously and resolve the issue in a way that protects the child, and they reinforce the value of good behaviour at home

10. DEALING WITH BULLYING INCIDENTS / ALLEGATIONS

Academies within the Maltby Learning Trust should apply disciplinary measures to pupils who bully in order to show clearly that their behaviour is wrong. Disciplinary measures must be applied fairly, consistently, and reasonably taking account of any special educational needs or disabilities that the pupils may have and taking into account the needs of vulnerable pupils. It is also important to consider the motivations behind bullying behaviour and whether it reveals any concerns for the safety of the perpetrator. Where this is the case the child engaging in bullying may need support themselves.

10.1 Where a pupil reports / alleges a bullying incident to an adult, or an adult witnesses an incident, the following are agreed procedures:

- Staff will prioritise ensuring the immediate safety of all other pupils, staff and property. In exceptional circumstances where there is a risk of injury to an individual, a member of staff may physically intervene following the academy's policy on Positive Handling (Safeguarding/Behaviour Policy).
- Any injured pupil or member of staff will receive appropriate medical attention as soon as is practicable.
- Staff will inform the appropriate staff members (Class teacher, Principal, Pastoral Leader) as soon as possible.
- Principal, Class Teacher or Pastoral Leader will interview both the target(s) and bullying pupil separately and in private to establish the facts without apportioning blame.
- A decision will be taken regarding whether to contact the parents of both the target(s) and bullying pupil. The Pastoral Leader or Principal will inform the victim's parents if there is any injury or the young person is at risk of significant harm.
- The Pastoral Leader should retain copies of any paperwork for filing in the behavior file. Where necessary records will also be kept in the Behaviour log. When it is technically possible, incidents will be recorded on SIMS.
- Appropriate sanctions and support will be discussed and agreed upon. The Pastoral Leader will take the targeted pupil's wishes into account when deciding how to deal with the bullying pupil, but incidents will always be dealt with in line with the academy's behavior policy. The incident will be recorded either in the behavior file, detailing the bullying pupil's actions and sanctions or in the student concerns book.
- Both the targeted pupil and the bullying pupil will be offered the opportunity to meet and talk about their experiences.
- After initial investigation by relevant staff, if the incident is deemed to be bullying under the definitions above, the pupils will be informed that notes will be taken of the conversation and both will agree at the end that what has been written is a true record. Confidentiality will not be promised.

- The Pastoral Leader will listen carefully and objectively to the pupil's account. The pupil(s) will be encouraged to share what they are feeling.
- Staff will ascertain who has been involved, including bystanders.
- Staff may offer coping / preventative strategies/pastoral support if appropriate.

11. SUPPORT, EDUCATION AND CONSEQUENCES FOR THE BULLYING PUPIL(S)

11.1 Research suggests that encouraging the bullying pupil(s) to think about how the target(s) of bullying is feeling raises their awareness of the pain they are causing and can bring about a positive change in their behaviour.

11.2 Pupils are more likely to show empathy if they receive empathy.

- The Pastoral Leader will approach the pupils in a non-confrontational manner with the emphasis on problem solving.
- The Pastoral Leader will explain that they would like to talk to the pupil(s) concerning unkindness towards (name of target). Staff will ask the pupil(s) if they know how (name of target) is feeling right now.
- The Pastoral Leader will explain that they believe the bullying pupils are responsible for those feelings. They will state formally that this behaviour is not acceptable.
- The Pastoral Leader will ask for suggestions as to what the pupil(s) can do to help the targeted pupil to feel better and to help solve the problem.
- Staff will let the pupil(s) know that they will be monitoring the situation and what the likely consequence will be if they hear of further bullying behaviour.

11.3 Menu of consequences

- Monitor the bully, give coping strategies to the victim
- Application of academy sanctions – red card/report for bully
- Seclusion for a day with Pastoral Leader (if premeditated/deliberate)
- Fixed term exclusion if physical violence, cruel, no remorse

11.4 Suggested Interventions

- Access to a counselling service- either external or school Pastoral Support
- Arrange for them to have a buddy
- Raise their self-esteem so that they don't need to bully

The Pastoral Leader will enquire about any worries/difficulties that may be behind the behaviour and offer appropriate support.

12. WORKING WITH PARENTS/CARERS WHEN BULLYING OCCURS

- 12.1 The Maltby Learning Trust appreciates that there will be occasions when the parents and carers of one or both sets of pupils involved will feel that the School has not sanctioned appropriately. Parents or carers will be given the opportunity to share their concerns and if appropriate, staff will discuss the decisions to impose the particular sanction(s) with them.
- 12.2 Where a parent/carer is dissatisfied with the academy's handling of a situation, then the Principal will seek to resolve the situation informally. In the event of a formal complaint, then the agreed complaints procedure for the Trust will be invoked.
- 12.3 The Maltby Learning Trust actively encourages and welcomes comments, questions and suggestions regarding our anti-bullying policy. Please contact the appropriate Pastoral Leader or Principal.

Appendix 1 - Contacts

Key Contacts

Child Protection Advice from a) Member of the Academy Child Protection Team

Designated Officers –

Mr D Horrigan

Mrs L Langton

Mr R Pease

Ms J Denyer

Mrs S Searson

Designated Safeguarding Governor-

Mrs D Bonewell

b) Local Authority Safeguarding Team (LADO)

01709 822690

c) Education Welfare Officer (EWO) Keeley Kilby

E mail: keeley.kilby@rotherham.gov.uk

Appendix 2 – Powers to search

From 'Searching, screening and confiscation Advice for headteachers, school staff and governing bodies' (DfE February 2014)

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

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

The right under Article 8 is not absolute, it can be interfered with but any interference with this right by a school (or any public body) must be justified and proportionate.

The powers to search in the Education Act 1996 are compatible with Article 8. A school exercising those powers lawfully should have no difficulty in demonstrating that it has also acted in accordance with Article 8. This advice will assist schools in deciding how to exercise the searching powers in a lawful way.

Searching

Academy staff can search a pupil for any item if the pupil agrees (ability to consent may be limited by age and other factors).

Principals 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

OR 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).

Principals and authorised staff can also search for any item banned by the academy rules which has been identified in the rules as an item which may be searched for.

Confiscation

Academy 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 academy discipline.

Searching with consent of the child

Academy's common law powers to search:

Academy staff can search pupils with their consent for any item.

Note:

- Academies 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.

- Academies should make clear in their 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 academy's behaviour policy.
- A pupil refusing to co-operate with such a search raises the same kind of issues as where a pupil refuses to stay in a detention or refuses to stop any other unacceptable behaviour when instructed by a member of staff – in such circumstances, academies can apply an appropriate disciplinary penalty.

Searching without consent of the child

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 to, or damage to property; and

Any item banned by the academy rules which has been identified in the rules as an item which may be searched for.

Can I search?

Yes, if you are a principal or a member of academy staff and authorised by the principal.

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 at all 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 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

- Principals 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 Principals may not require anyone other than a member of the academy 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 principal can require a member of the academy's security staff to undertake a search.
- If a security guard, who is not a member of the academy staff, searches a pupil, the person witnessing the search should ideally be a permanent member of the academy staff, as they are more likely to know the pupil.

Training for school staff to search without consent

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

Establishing grounds for a search without consent

- 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.
- 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 academy 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.
- Academy 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 academy rules

- An item banned by the academy rules may only be searched for under these powers if it has been identified in the academy rules as an item that can be searched for.
- The academy rules must be determined and publicised by the principal 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 9 school rules must be determined in accordance with the School Behaviour (Determination and Publicising of Measures in Academies) Regulations 2012. Separate advice on academy rules is available in 'Behaviour and Discipline – advice for headteachers and school staff' (DFE).
- Under section 89 and the School Behaviour (Determination and Publicising of Measures in Academies) Regulations 2012 the principal must publicise the academy 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 academy premises or, if elsewhere, where the member of staff has lawful control or charge of the pupil, for example on academy 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 academy's rules.
- Separate advice is available on teachers' power to use force – see Associated Resources section below for a link to this document

After the search

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:

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.

- 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 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 academy 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

- 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:
- 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, academy staff may judge it appropriate to contact the police if the items are valuable (iPods/laptops) or illegal (alcohol/fireworks).

Statutory guidance for dealing with electronic devices

- Where the person conducting the search finds an electronic device they may examine any data or files on the device if they think there is a good reason to do so. Following an examination, if the person has decided to return the device to the owner, or to retain or dispose of it, they may erase any data or files, if they think there is a good reason to do so.
- The member of staff must have regard to the following guidance, issued by the Secretary of State, when determining what is defined as 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 must 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 inappropriate material is found on the device it is up to the teacher to decide whether they should delete that material, retain it as evidence (of a criminal offence or a breach of academy discipline) or whether the material is of such seriousness that it requires the involvement of the police.
- 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 academy.

Telling parents and dealing with complaints

- Academies 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.
- Academies 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 Trust complaints procedure.