

CANTERBURY COLLEGE POLICY

SCREENING & SEARCHING STUDENTS FOR WEAPONS POLICY

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CANTERBURY COLLEGE
SCREENING AND SEARCHING STUDENTS FOR WEAPONS POLICY

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SCREENING AND SEARCHING OF PUPILS FOR WEAPONS:

GUIDANCE FOR STAFF

Foreword

The Department for Education and Skills Ministers announced on 16 October 2006 that a college has power, without any new legislation, to require pupils to undergo screening, when the college does not have reasonable grounds for suspicion. Legislation enabling searches on suspicion comes into force on 31 May 2007.

[1] Context

[1] Introduction

This policy details:

[a] the power to screen pupils for weapons without suspicion; and
[b] the statutory power¹ (it is not a legal duty) for Principals, and staff they authorise, to search pupils without consent, when they have reasonable grounds for suspecting that a pupil has a knife or other weapon. They can search a pupil on college premises or anywhere else where pupils are under the charge of the member of staff conducting the search, such as during an off-site educational visit. When college staff decide to conduct a search under this power, they *must* comply with conditions specified in the statutory power.

Further Education. While all Further Education (FE) institutions are private sector bodies, with more discretion than most colleges have over how they manage students and safety, this guidance should also be of use to staff at FE institutions. FE staff have a statutory power² similar to the college power, to search, with reasonable grounds for suspicion and without consent, students at the institution. This includes pupils from a college receiving some of their compulsory education at an FE institution. An FE institution can also make it a condition of enrolment for students over compulsory college age that they consent to being searched, with or without suspicion.

In this policy:

- we use “must / must not” for a duty or prohibition in law and “can” for a statutory or common-law power; “we recommend/ you should” for advice on good practice.

¹Section 550AA, Education Act 1996: inserted by Section 45, Violent Crime Reduction Act 2006: comes into force on 31 May 2007.

²Section 85B, Further and Higher Education Act 1992: inserted by section 46, Violent Crime Reduction Act 2006).

[2] Scope of powers

[a] No-contact or low-contact Screening

The College can require pupils to undergo screening for weapons *without* suspicion and without consent, by a walk-through or hand-held metal detector (arch or wand) which is “no-contact” or “low-contact” - it does not involve “patting down”, though it may involve minimal contact of the wand with the pupil’s clothing. Screening of this nature will be for occasional screening of randomly-selected pupils while on the premises – for example, a class or a year-group and screening of all pupils on entry will only be used in exceptional circumstances and/ or for limited periods.

If a pupil refuses to be screened, the College may refuse to have the pupil on the premises or on an off-site educational visit. The college has a statutory power to make reasonable rules as a condition of admission. If the pupil fails to comply, and the College does not let the pupil in, it is unauthorised absence: the College has not excluded the pupil. The pupil’s duty is to comply with the rules, and attend.

Non-contact screening is not subject to the same conditions as with-suspicion searches under the statutory power to search. The College can screen in view of other pupils. The College should still take care to conduct screening reasonably, and should obtain training in the use of arches and wands (see Section 6, Training, below). Authorisation of staff, required for no-consent searches, is not required for screening. Staff should require pupils to remove from their pockets, before screening, any metallic object that could cause a ‘beep’.

Searches on suspicion and without consent can also start by screening. If a wand or arch “beeps”, showing it has detected metal, after a pupil has initially said that no metallic objects remain in their pockets, then this detection might help the searcher to gain consent, cooperation, or surrender of the object.

[b] Without-consent search

The statutory power to search applies where there are reasonable grounds for suspecting that a pupil has with him or in his possessions any of the following:

- any article which has a blade or is sharply pointed. The definition does not include a folding pocket knife other than one whose cutting edge exceeds three inches or one which is not readily foldable at all times (such as a locking knife). This definition is taken from section 139 of the Criminal Justice Act 1988;
- an object referred to in this guidance as an offensive weapon – to be precise, any article made or adapted to injure a person, or any article which is intended by the person carrying the article for such use by him or by another person. This is taken from section 1 of the Prevention of Crime Act 1953. Three types of article are covered:
 - (1) a weapon made for causing injury, such as a gun;
 - (2) an article adapted for causing injury, such as a bottle broken deliberately for the purpose; and
 - (3) an article not made or adapted for causing injury but which the person who has it intends to be used for the purpose of causing injury, e.g. a baseball bat.

The power includes a power to search where there are reasonable grounds to suspect that a pupil is in innocent possession of a weapon. The power does not allow without-suspicion (whether random or blanket) searches, but see also the separate section in this guidance on “screening”.

Note: It is a criminal offence³ to have a knife or offensive weapon on college premises. It is a defence to be carrying one for an educational or other lawful purpose.

[c] Human Rights Act 1998

The above actions are unlikely to engage any of the Convention rights within the meaning of the Human Rights Act 1998. If such rights are engaged, any interference is capable of being justified for the purpose of keeping pupils and staff safe at College⁴.

[3] Role of College employer; College statement of policy

Managing Safety. College employers⁵ must ensure, so far as is reasonably practicable, the health and safety of pupils and staff in their College. The employer’s main duties under workplace health and safety law are outlined in DfES guidance: *Health and Safety: Responsibilities and Powers*, which includes a section on training. The employer must provide guidance, training and policy on health and safety matters. For example, an employer could instruct a Principal to direct authorised security staff to search pupils whenever the security staff have a reasonable suspicion of a weapon being carried.

College policy: In the Student Behaviour policy, the policy should:

- remind pupils that it is a criminal offence to have a knife or offensive weapon in College and that the penalties for a pupil on conviction can be severe ;
- include how, when a pupil is suspected of carrying a weapon but College staff choose in this particular instance to call the police instead of using the power to search, College staff will manage the pupil in order to keep other pupils and staff reasonably safe while the police are not present.

[4] Options before a without-consent search

The College will normally use the power of without-consent search only if it has first exhausted other options:

³ Section 139A, Criminal Justice Act 1988.

⁴See, for example, the speech of Lord Bingham in *R (on the application of Gillan) v. Metropolitan Police Commissioner* [2006] UKHL 12.

⁵ The employer is: the Local Authority in a community, community special, voluntary controlled, or maintained nursery college or pupil referral unit; the Governing Body in a foundation, foundation special or voluntary aided college; and usually the governing body or proprietor in an independent college.

[a] the main way to persuade pupils not to carry a weapon is educating them in how to behave well, how to resolve conflicts without violence, and about the dangers as well as the illegality of, and penalties for, carrying a weapon, whether in College or elsewhere.

[b] where staff suspect a pupil is carrying a weapon, they can seek to confirm or allay their suspicion by questioning the pupil;

[c] if questioning confirms suspicion, staff should ask the pupil to surrender the weapon, reminding the pupil about key points of the college policy and college rules and that it is a criminal offence, with severe penalties, to carry a weapon in college. As from 12 February 2007 the penalty for carrying a knife or offensive weapon is up to 4 years imprisonment and/or a fine. Comparable youth penalties are based on, among other factors, carrying a knife being classified as a crime of medium seriousness.

[d] If suspicion remains and the pupil does not surrender the weapon, staff should ask the pupil to consent to a search. In a with-consent search, the statutory constraints on a without-consent search do not apply, but we recommend that a college follow them.

[e] A member of college staff may have reasonable grounds to suspect that a pupil is in innocent possession of a weapon (e.g. the pupil is unaware that it has been “planted” on him): in that case the pupil may be searched, but is most likely to surrender the weapon willingly if asked.

[f] **If the college decides a search would not be safe, they should call the police.** The power to search is not a duty: it should only be used where college staff judge that it is safe to do so. In particular, if members of staff believe that a pupil is carrying a weapon and is likely to resist a search physically, they should call the police rather than try to overcome him. Other factors that college staff can consider in deciding whether they judge that a search would be safe include:

- college staff, especially senior managers, are highly skilled and experienced in managing the behaviour of young people in their charge. This includes the ability to resolve difficult confrontations;
- the law requires a second adult to be present for a search;
- training should be undertaken before any staff do a search.

A suspected pupil might not stay to be searched and might flee the scene. If staff believe that the pupil's running away indicates he would physically resist a search, then whether or not he stays on college premises, and whether or not a weapon has been found, staff should call the police at once and seek to identify the pupil's whereabouts, rather than look for the pupil themselves.

III] During a search: practical aspects

[5] Staff

As mentioned above, the power to search should be used only as a last resort. It is not a duty. The Principal cannot require anyone other than a member of the security staff to carry out a search where they have reasonable grounds for suspecting that a pupil has a knife or offensive weapon with him or in his possessions. Security staff are staff employed entirely or mainly for college security purposes. The Principal can if it is reasonable in the circumstances, direct a member of staff to be present at a search. This “second person present” should be someone already authorised and trained to search.

Staff who undertake a search according to the law and who follow their employer’s guidelines are protected by the law. Staff in practice are not sued, because the employer is “vicariously” liable when their actions are “in the course of employment”, which is usually the case where staff follow their employer’s guidance.

Two members of staff must be present at a without-consent search of a pupil or his possessions (even where the search is conducted by the Principal, who is then one of the two).

During a weapons search of a pupil without consent, the searcher and the required “second person present” must be of the same sex as the pupil searched. This means that a college without two male staff must not search male pupils without consent, and should instead call the police if it does not have a security contractor immediately available. A pupil’s possessions can be searched without consent (and the search witnessed) by staff of the opposite sex to the pupil; the pupil must be present.

For a weapons search without consent, the “second person present” must be a member of the college staff, defined as any teacher who works at the college or anyone who, by the authority of the Principal, has lawful control or charge of the pupils.

College staff can search a pupil outside the college premises where the pupil is under their lawful control or charge, e.g. during an offsite educational visit. It is recommended that on college visits, staff should normally rely on calling the police rather than seek to have a member of staff authorised to search on every visit where suspicion might arise.

Only in exceptional circumstances will the college allow more staff to be present than the two who must be present. For example, searching a pupil with particular Special Educational Needs might be helped by support from a further adult with expertise on the pupil’s needs; or, where particular religious or cultural sensitivities might apply, an adult with knowledge of those aspects might help. Some searches might be helped by a parent’s presence where that is practicable. A search can in principle be conducted

with other persons present (that is, as well as the pupil and two members of staff of the same sex), though the pupil's privacy and dignity should be safeguarded. In some cases it might be advisable to take the pupil to a separate room, for example if the pupil is to be asked to remove a religious head covering.

[6] Training for college staff

The Principal should undertake training if intending to search pupils for a weapon on suspicion and without consent, and should arrange training (including refresher training) for any college staff whom the Principal will authorise to search. No-one should do a search before being trained.

Members of college staff voluntarily undertaking a search of pupils in their own college are not required to hold a licence under the Private Security Industry Act 2001. So a full 'door supervision' course of 30 hours would not be appropriate. That said, training should be wide enough to include, for example, awareness of what constitutes a weapon; the issue of any protective clothing for searchers; recording an evidence trail; confiscation of illegal items; and detaining a pupil after a weapon is found.

[7] Liaison between the college and local police

The college will liaise with local police to mutually establish and develop strong partnerships to result in better and more cost-effective search arrangements and security procedures.

[8] Use of Staff from Security Firms

Should the college decide to use a security firm, for screening without suspicion in order to deter and prevent, this would require the Principal to give them lawful charge of the searched pupils, and authorise them to search.

If the college decide to use staff of a security firm to search pupils on suspicion, then:

- the Principal should give written lawful control or charge of pupils, for the purposes of a search, to any security guard they will authorise to search, as part of the contract between the security firm and the college;
- if a security firm employee searches a pupil, we recommend that the second person who must be present should be a permanent member of the college staff (who is authorised to search), because security-firm staff are likely to be less familiar with the college and its pupils;
- Security staff must undergo Criminal Records Bureau check

The College will ensure security guards have a licence to operate from the Security Industry Authority (SIA). (A licence means that the guard has a formal qualification with (for front-line security guards) training in personal searches and coping with conflict and risk, though not necessarily in working with children).

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[9] Authorisation

A Principal needs no authorisation to conduct a weapons search without consent. Other college staff must be authorised by their Principal before they can do so. Authorisation may be on a long term or permanent basis, or for a stated shorter period, and should be in writing.

We recommend that the “second person present” at a search should be authorised and trained to search, because while they are witnessing the propriety of a search, the member of staff conducting the search might ask the member of staff witnessing to help more actively. They *must* be authorised if they join the search. The second person can use reasonable force to restrain a pupil if the pupil unexpectedly seeks to assault the person undertaking the search, though such instances would be rare; the statutory power of members of staff to use force applies (see Section 13 below).

We recommend that Principals who choose to authorise staff should usually authorise staff generally, to allow a search at any time, at short notice, of any suspected pupil. Authorising just for a particular search could only be done at the time when suspicion arises, which could unhelpfully delay the search. A Principal could decide to authorise a member of staff to conduct a particular type of search, e.g. during an offsite educational visit (though for practical reasons this might be rare), or for a group of pupils whom the staff member knows well. We recommend that Principals consider carefully whether to authorise short-term staff or others, especially volunteers, who may not know pupils so well as permanent staff do. College staff not authorised to conduct a search and who suspect the presence of a weapon should tell the Principal or an authorised colleague, or call the police.

Heads should keep a log of staff authorised, type of authorisation (general, particular type of search, or a particular search) and training achieved.

When the Principal is not on the premises, if there is an acting Principal (who may be a deputy Principal in some instances), then they can take over the head’s powers⁶ to conduct a search or authorise another member of staff to conduct a search.

⁶ Section 579(1) of the Education Act 1996.

An authorised member of staff of a 'host' college can search pupils from another college who are engaged in learning at the host college.

[10] Reasonable Suspicion (which allows a search to take place)

If authorised staff suspect a weapon is somewhere in a college or on an offsite educational visit, they can search any of their college's pupils if they have reasonable grounds for suspecting that he has the weapon with him or in his possessions. This is a legal standard and not a subjective one; the searcher must assess what constitutes, in each particular case, reasonable grounds for suspicion that a pupil may have a weapon with him or in his possessions. We recommend that the searcher should, in reaching a decision, take account of the following factors.

[a] No-contact or low-contact screening with a wand or arch might establish suspicion.

[b] Suspicion should be based on facts relevant to the likelihood of finding a weapon. Reasonable suspicion will rarely be supported on the basis of personal factors alone, without reliable supporting intelligence or information about some specific behaviour by the pupil to be searched. For example, a pupil's race, age, appearance, or any isolated instance of misbehaviour in the distant past must not be used alone or in combination with each other as the reason for suspecting that pupil. Reasonable suspicion cannot be based on generalisations or stereotypical images of certain groups or categories of pupils as more likely to be in possession of a weapon. However, the Department believes that colleges (and FE Colleges) will normally be able to make reasonable decisions, based on their knowledge of pupils and their past habitual behaviour.

[c] Reasonable suspicion may sometimes exist without specific information or intelligence, and on the basis of some level of generalisation stemming from the behaviour of the pupil. For example, if a member of staff sees a pupil in college or on an offsite visit obviously trying to hide something, the member of staff may, depending on other surrounding circumstances, base suspicion on the fact that this kind of behaviour could be linked to a weapon being carried.

[d] However, reasonable suspicion should normally be linked to accurate and current intelligence or information, e.g. a pupil describes to staff an article being carried by another pupil; from the description, the member of staff suspects it is a weapon. Searches so based are more likely to be effective, and minimise inconvenience both to pupils not suspected, and to staff. It also helps in justifying the search to searched pupils, their parents and college managers. Where a member of staff reasonably suspects a

knife is somewhere on the premises, though one has not yet been found, then suspicion may move from initially more suspect pupils to initially less suspect ones (who may, for example, have been bullied into 'storing' a knife).

[e] Searches are more likely to be effective and legitimate and to secure public confidence when reasonable suspicion is based on a range of factors. The searcher should state their grounds of suspicion to the searched pupil.

[f] Where there is reliable information that members of a particular local group habitually carry knives or other weapons unlawfully, this may provide reasonable grounds to search the pupil. A Principal should not be discouraged from having a pupil searched just because the pupil belongs incidentally to an ethnic or religious minority. This would work against the college's Race Equality Policy (setting out how it tackles racial discrimination and promotes equality of opportunity and good race relations) and its duty of care towards all its pupils.

[g] Before carrying out a search a member of college staff may ask the pupils questions about the pupil's behaviour or presence in circumstances which gave rise to the suspicion. As a result of questioning, the reasonable grounds for suspicion may be confirmed or be eliminated. Questioning may also reveal reasonable grounds to suspect the possession of a different kind of unlawful article from that originally suspected. But while staff who suspect a pupil can, before searching, question the pupil (and as a result confirm or eliminate their reasonable grounds for suspicion), staff cannot use the result of a search to provide grounds for suspicion retrospectively.

See below on suspicion about objects found during a search.

[11] Location

While pupils can be screened in a public part of the college, we recommend that colleges (and FE Colleges) do what they can to conduct a no-consent, on-suspicion search in a private place - that is, out of view of other persons than those who must or may be present. Where this is not possible – for example because the pupil refuses to co-operate – the police should be called. See Section 4[f].

[12] Extent of Search – clothes and possessions

The power to search on suspicion and 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.

The searcher can pat down a person's clothing, without directly touching the body. If patting down finds an object in, for example, a trouser pocket, the pupil can be asked to bring out and show the object. If this is refused, the searcher can search the pocket. A pocket should not be searched when the member of college staff believes the pupil may interpret the search as an assault. The police should be called instead.

The searcher can require the pupil to remove outer clothing (e.g. a coat, jacket or pullover - see also the definition and examples of outer clothing in the legislation) if it is necessary for the search. If the pupil refuses, the searcher can use reasonable force to remove outer clothing (see section 13). If reasonable force is not enough to remove the outer clothing and staff still suspect a weapon, they should call the police. This option is always available: the college can stop the search at any point and call the police instead. (Resisting a police search can be a criminal offence⁷.)

Staff must not require a searched pupil to remove, and must not themselves remove, clothes beneath outerwear: e.g. trousers, skirt, sari, shirt, blouse, shalwar-kameeze (tunic and trousers), socks, tights. Nor should staff seek the voluntary removal of such clothes. Pupils volunteering to remove such clothes should be required not to do so. Staff must be careful not to touch or hold a pupil indecently – see DfES guidance on the use of force, which includes advice on “physical contact with pupils”.

We recommend that when colleges (and FE Colleges) search they should take reasonable steps to preserve the dignity and privacy of any searched pupil:

- some of these safeguards are required by the new law: the person who carries out a search of a pupil and the other person who must be present at a search must be of the same sex as the pupil being searched (see above). Failure to take proportionate steps to preserve the dignity and privacy of any searched pupil may lead to a breach of the pupil's rights under the Human Rights Act. The advice below deals with the issues involved:

⁷ Resisting or wilfully obstructing a constable in the execution of his duty: section 89(2), Police Act 1996.

- as stated under **Location**, we recommend searching out of sight of other pupils or staff passing by – though privacy may not always be possible, e.g. where college staff decide to search a line of pupils waiting to board a coach;

- searchers should be sensitive to issues of race, culture or religion, e.g. where a pupil’s customary head covering or other outer clothing has religious or cultural associations. In this respect, the previous two steps should help. See also Section 14 on Special Educational/Medical Needs:

- boys who are Sikhs might carry, as a religious duty, a ceremonial knife (kirpan). Since this is a legitimate item, college staff should ask a Sikh pupil to declare it before being screened or searched in the same way as other legitimate metallic objects (e.g. keys or coins) should be declared. *College Security: Dealing with Troublemakers* contains detailed advice on the kirpan.

A pupil’s possessions include any goods over which the pupil has or appears to have control, e.g. a bicycle, panniers, motorbike, car (including family car). A college can already search a pupil’s locker, since lockers or other storage facilities are college property (see “Drugs: guidance for colleges (and FE Colleges)”, DfES, 2004, page 62). The new power expressly preserves existing powers.

[13] Use of Force

The power⁸ of college staff to use reasonable force to prevent a pupil committing an offence, injuring themselves or others, damaging property, or prejudicing the maintenance of good order and discipline applies to a search without consent (see DfES guidance on use of force). While it is legally permissible to use force, we advise that when a pupil suspected of carrying a weapon is likely to physically resist, college staff call the police rather than using force to continue a search (see section 4[f] above). See also Section 9 on when the second person present can use reasonable force (to oppose an unexpected assault on the searcher).

[14] Special Educational Needs/ Medical Needs

Any pupil may be upset by being searched without consent. Some pupils with behavioural problems might react strongly to being searched or confined in a private room. College staff should take account of DfES guidance on use of restrictive physical interventions for pupils with severe behavioural difficulties (2003) and for pupils who display extreme behaviour in association with learning disability and/ or autistic spectrum disorders (2002). Colleges (and FE Colleges) should not conduct a search

⁸ Section 93, Education and Inspections Act 2006.

themselves, but should call the police, when they expect a pupil may violently resist being searched.

Principals and other staff should not normally exempt pupils from a search solely on grounds of their special educational or medical needs. However, colleges (and FE Colleges) should take account of any additional sensitivities, e.g. by spending more time discussing their suspicion with a child with learning difficulties or medical needs, before a search, and should involve the special educational needs co-ordinator. Any 1-to-1 supervisor of a pupil being searched should also be present at the search.

[[III]] Consequences

[15] After the Search

If no weapon is discovered by a search, the college can decide to take no further action, but should still:

- briefly record the outcomes;
- inform the pupil's parent; and
- inform the college's governing body annually of how many searches or screenings took place under the college's policy, and the results.

[a] power to seize

The searcher can seize:

- any knife or offensive weapon or anything that could be used as an offensive weapon. See below on storing and surrendering;
- any knife or other weapon found 'accidentally' - when, for example, a mobile phone is being confiscated. It should be treated as if it has been sought;
- anything which provides reasonable grounds for suspecting that an offence has been committed – for example, an offence relating to drugs or to stolen property. See below on found items other than suspected weapons.

When college staff find and seize a knife which they suspect is illegal, they should promptly inform the police. Since staff must pass the seized knife to the police, they should ask if the police are willing to collect it from the college. The police, when they learn of the alleged offence, might also wish to come to the college to question the pupil from whom the knife was seized.

When the authorised member of staff has seized a suspected illegal knife or other weapon found on a pupil's person, he and the second person present should arrange for someone to call the police. If the police say they will come to the college to question the pupil, staff should guard the pupil with reasonable force as necessary until the police arrive. Staff should similarly guard a pupil when they have called the police to attend in order to search that pupil.

[b] storing and surrendering a confiscated weapon

If a suspected illegal weapon is seized it *must* be delivered to the police as soon as is reasonably practicable. This would usually happen at the college, if the police come in response to the college's call. It is lawful for staff to keep a seized weapon (we recommend securing it in a locked cupboard) until delivering it to the police. The Principal should also arrange for a written note to the police recording delivery of a seized item.

[c] Other found items

A weapon search might find items on the pupil that are against college rules or even illegal such as drugs or stolen property, which the searcher can seize – see power to seize, above; also *Drugs: Guidance for colleges (and FE Colleges) 2004*. For general powers for colleges (and FE Colleges) to draw up and enforce disciplinary measures, which could include confiscation powers, see DfES guidance, "College Discipline and Behaviour Policies" (2007). Anything which the searcher suspects is evidence in relation to an offence and seizes must, as with weapons, be delivered to the police.

[d] Records

Given that a pupil holding an illegal knife or other weapon on college premises is committing an offence, it is possible that the pupil will be arrested by the police, and that members of staff involved in the search will be called as witnesses in a criminal prosecution. The Principal should require authorised staff to make and keep a written or electronic record of any search as soon as possible, e.g. in an incident book. It may help prevent any misunderstanding or later misrepresentation. Such records, together with evidence trails, could be of use to the courts. Colleges (and FE Colleges) can decide how long to retain a file for the purpose of discerning trends. The record should include:

- name, year, sex, ethnicity of every pupil searched
- grounds of suspicion
- time and place
- who searched
- who else was present
- what if any reasonable force was used, and if so why
- how the search began and progressed

- the pupil's responses and how staff managed them (e.g. steps taken to calm the pupil)
- outcomes and follow-up actions.

Staff might find it helpful to seek advice from a senior colleague or a representative of their professional association when compiling a report.

[e] Informing Parents; complaints

Colleges (and FE Colleges) are not required in law to inform a parent before a search or seek parental consent, but a parent might feel concerned about their child being searched. As well as publicising the college's policy in advance (above), we recommend that the college should generally inform parents of pupils other than 18 year olds when their child has been searched, and offer an opportunity to discuss the matter. A parent might complain about a screening or search, to the Principal, governing body or employer. Colleges (and FE Colleges) must have a complaint procedure (in general, not search-specific) and must publicise it⁹.

In a few circumstances, we would not recommend informing parents. An example might be where something found could be evidence of an offence involving the parent as well. Another situation might be where, although nothing was found, a parent might be abusive towards the child on the mistaken assumption that the child "must have" done something wrong because staff had grounds for suspicion (which, in fact, does not follow).

[f] Exclusion

"There will be circumstances where, in the Principal's judgement, it is appropriate to permanently exclude a child for a first 'one-off' offence. These might include ... carrying an offensive weapon." (*Improving Behaviour and Attendance: Guidance on Exclusion from Colleges (and FE Colleges) and Pupil Referral Units* DfES 2006).

[16] Finance; Review by DfES; Devolved Administrations

Finance: The power to screen and the power to search are powers which colleges (and FE Colleges) may choose to implement or not, using funds already available to them for training staff, for equipment, or for security, or from elsewhere within the college's delegated budget share.

⁹ Education Act 2002, section 29.

Review by DfES: After the power to search has been in force for 3 years, DfES will review it by seeking the views of the Working Group on College Security. This was promised in the Government's response to the report, *Learning Behaviour*, 2005 of the Practitioners' Group on College Behaviour and Discipline chaired by Sir Alan Steer.

Devolved Administrations: This guidance is for England. The Welsh Assembly Government will separately consider whether and when to bring the power to search into force in Wales, and any associated guidance.

DfES, May 2007

CONTACT DETAILS: please address any enquiries about this guidance to the Department's Public Communications Unit by email at info@dfes.qsi.gov.uk, by telephone on 08700 000 2288, or by letter to Public Communications Unit, Department for Education and Skills, Castle View House, East Lane, Runcorn WA7 2GJ.

APPENDICES

Appendix [I] Summary of Screening and Searching Powers

(See references at Section 2(b) above)

Screening

College rules can require pupils to undergo random screening for weapons without suspicion as part of the college's disciplinary power and the duty to manage risk.

Searching with consent

Colleges (and FE Colleges) may search pupils who have consented to be searched, but we recommend that the constraints required by law for no-consent searches, and good practice on them, should be followed on with-consent searches.

Searching without consent.

(Safety advice - reminder: No-one should be authorised to do a search before being trained. The power to search should be used only where it is judged safe. If the college decide it is unsafe to search, they should call the police.)

Searching without consent is the new statutory power from 31 May 2007.

A *Principal* can conduct a weapons search without consent where there are reasonable grounds to suspect the possession of a weapon. Other college staff must be authorised by the Principal before they can do so.

Authorised staff. A Principal can search in the presence of another member of staff; and can authorise other staff to search in general, or for a particular search or type of search, in the presence of another member of staff. A Principal may not direct a member of staff to carry out a search, except security staff.

Searchers must be same sex as searched. As well as the searcher, one other member of staff must be present at a search of a pupil and must be of the same sex as the pupil searched. When the pupil's possessions are searched, the pupil and a second member of staff must be present, but the staff may be of either sex.

Suspicion. The searcher must have reasonable grounds for suspecting a pupil may be carrying a knife or other weapon. The search can take place on college premises or on a college visit. The searcher can seize anything he reasonably suspects is a weapon or evidence of an offence.

Clothing. The searcher can require the pupil to remove outer clothing. Where the pupil refuses to do so, the searcher can use reasonable force to remove, for example, an overcoat.

Force. The member of staff searching the pupil may use reasonable force.

Weapon Found. The searcher may confiscate a weapon or anything which he or she suspects is intended to be used as a weapon; and must pass it to the police as soon possible [the police have long-standing arrangements for dealing with such items]. Other evidence of an offence can also be seized and, if seized, must be passed to the police.

With Consent. The power to search without consent does not inhibit the college's power to search a pupil where the pupil consents. See paragraphs on "options before a without-consent search" above, in [I] Context.

Staff Defined. The law on without-consent search defines "a member of the staff of a college" to include teachers and anyone else authorised by the Principal to have lawful control or charge of a pupil: this could include a security firm's employee.

Appendix [II] Cooperation between colleges (and FE Colleges) and police

(See reference at Section 7 above)

See Home Office/ DfES *Safer College Partnerships* (SSP) Guidance:

<http://www.everychildmatters.gov.uk/ete/ssp/resources> .

The Safer College Partnerships (SSPs) Mainstreaming Guidance illustrates the different ways colleges (and FE Colleges) and police forces should consider SSPs as part of their response to a range of challenges in their colleges (and FE Colleges) and local areas, which can be adapted to suit local need. The benefits of this approach include: improved pupil safety, safer working environment and communities, multi-agency problem solving, improved relationships between young people and the police, and increase in the respect for young people and the respect they have for their fellow students and the wider community.

Appendix [III] Other guidance and information

(See references through guidance, above)

[a] Violent Crime Reduction Act 2006. The college search power is at:

<http://www.opsi.gov.uk/acts/acts2006/60038--e.htm#45>

[b] College security

College security: dealing with troublemakers: DfEE / HO 1997:

details e.g. police powers, offence of carrying a knife in college, etc.

[c] Insurance

Insurance: a guide for colleges (and FE Colleges)

Ref DfES/0256/2003: DfES (College Funding, Value for Money Unit) 2003

[d] Citizenship in the college curriculum

Learning about citizenship, in the college curriculum:

<http://www.teachernet.gov.uk/teachingandlearning/subjects/citizenship> .

[e] DfES guidance on pupil behaviour in college and related topics

- New discipline and behaviour guidance (April 2007):

<http://www.teachernet.gov.uk/wholecollege/behaviour/collegedisciplinepupilbehaviourpolicies> ;

discusses searching for and confiscating personal property, clothing, and jewellery.

- Drugs guidance (2004):

<http://www.teachernet.gov.uk/wholecollege/behaviour/drugs> .

- Violence Reduction in Colleges (and FE Colleges) (VIRIS) guidance:

http://www.teachernet.gov.uk/wholecollege/behaviour/npsl_ba/violencereduction .

- Use of force guidance, including

- DfES revised general guidance on the use of reasonable force: a draft was published for consultation in January 2007, and DfES aims to issue a final version in summer 2007. It will replace DfES Circular 10/98.
- DfES guidance on use of restrictive physical interventions for pupils with severe behavioural

difficulties – DfES Ref: LEA/ 0264/ 2003.

- DfES guidance on use of restrictive physical interventions for staff working with children (and adults) who display extreme behaviour in association with learning disability and/ or autistic spectrum disorders – DfES Ref: LEA/ 0242/ 2002.

[f] Exclusions

<http://www.dfes.gov.uk/exclusions/guidance> .

[g] Safeguarding pupils from abuse

DfES guidance on Criminal Records Bureau checks for adults working with children can be found at: chapter 4, Recruitment and Vetting Checks, in: “Safeguarding Children and Safer recruitment in Education” (2006).

[h] DfES pupil safety guidance

www.teachernet.gov.uk/healthandsafety .