



**BIG CREATIVE
EDUCATION
APPRENTICESHIPS
TRAINING
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SEARCH & CONFISCATION POLICY LEARNERS

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Approved by the Principal

This policy refers to and should be read in conjunction with the following policies:

- Safeguarding and Child Protection Policy
- Drugs and Substance Misuse Policy
- Learning and Behaviour Policy
- Exclusions Policy

1. Key Points

- 1.1 Big Creative Academy security staff can search a learner for any item banned under the Learning and Behaviour Policy, if the learner agrees.
- 1.2 Security staff are authorised to search learners or their possessions, without consent, where they suspect the learner has certain prohibited items. The items that can be searched for under this power are knives or weapons, alcohol, illegal drugs and stolen items, 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 student).
- 1.3 Big Creative Academy security 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
- 1.4 Security staff can seize any banned or prohibited item found as a result of a search or which they consider harmful or detrimental to Academy discipline.
- 1.5 Reasonable force may be used by the person conducting the search. Only security staff are authorised by the Principal to use reasonable force in the case of a 'search without consent' (see also Safeguarding and Child Protection Policy).

2. Academics' obligations under the European Convention on Human Rights (ECHR)

- 2.1 Under article 8 of the European Convention on Human Rights students have a right to respect for their private life. In the context of these particular powers, this means that students have the right to expect a reasonable level of personal privacy.
- 2.2 The right under Article 8 is not absolute, it can be interfered with but any interference with this right by a academy (or any public body) must be justified and proportionate.

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

3. Refusal to agree to a search

3.1 If a learner refuses to be screened, Big Creative Academy may refuse to have the learner on the premises.

3.2 In order to ensure the safety of all Big Creative Academy learners, those refusing to co-operate with a search can receive a written warning or be suspended or excluded.

4. Screening

4.1 BCA can require students to undergo screening by a walk-through or hand-held metal detector (arch or wand) even if they do not suspect them of having a weapon and without the consent of the students.

4.2 Any member of academy staff can screen students.

4.3 If a student refuses to be screened, the academy may refuse to have the student on the premises.

4.4 If a student fails to comply, and the academy does not let the student in, the academy has not excluded the student and the student's absence will be treated as unauthorised. The student should comply with the rules and attend.

4.5 This type of screening, without physical contact, is not subject to the same conditions as apply to the powers to search without consent

5. Who Can Search/What Can be Searched For

5.1 Knives or weapons, alcohol, illegal drugs and stolen items, 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 student). (referred to in the legislation as 'prohibited items').

5.2 Members of staff authorised to search learners are as follows:

- Big Creative Academy Security Staff
- Big Creative Academy Curriculum Managers, the Senior Management Team and the Buildings Manager
- Big Creative Academy Duty Managers

The member of staff conducting the search must be the same sex as the learner being searched; and there must be a witness (a Big Creative Academy staff member) and, if at all possible, they should be the same gender as the learner being searched.

5.3 There is a limited exception to this rule. The academy can carry out a search of a student of the opposite sex 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 we do not conduct the search immediately and where it is not reasonably practicable to summon another member of staff.

6. Establishing grounds for a search

- 6.1 Big Creative Academy security staff can only undertake a search without consent if they have reasonable grounds for suspecting that a learner may have in his or her possession a prohibited item. They must decide in each particular case what constitutes reasonable grounds for suspicion. For example, they may have heard other learners talking about the item or they might notice a learner behaving in a way that causes them to be suspicious.
- 6.2 Big Creative Academy staff can view CCTV footage in order to make a decision as to whether to conduct a search for an item.
- 6.3 In the exceptional circumstances when it is necessary to conduct a search of a student of the opposite sex or in the absence of a witness, the member of staff conducting the search should bear in mind that a student's expectation of privacy increases, as they get older.
- 6.4 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 student, for example on academy trips in England or in training settings.

7. Extent of the search

- 7.1 • The person conducting the search may not require the student to remove any clothing other than outer clothing.
- 7.2 '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.
- 7.3 'Possessions' means any goods over which the student has or appears to have control – this includes desks, lockers and bags.
- 7.4 A student's possessions can only be searched in the presence of the student 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.
- 7.5 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
- 7.6 If a student 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.

8. Strip searching

- 8.1 A strip search is a search involving the removal of more than outer clothing. Strip searches on Academy premises can only be carried out by police officers under the Police and Criminal Evidence Act 1984 (PACE) Code A and in accordance with the Police and Criminal Evidence Act 1984 (PACE) Code C.
- 8.2 While the decision to undertake the strip search itself and its conduct are police matters, Academy staff retain a duty of care to the student(s) involved and should advocate for student wellbeing at all times. Before calling police into Academy, staff should assess and balance the risk of a potential strip search on the student's mental and physical wellbeing and the risk of not recovering the suspected item.
- 8.3 Staff should consider whether introducing the potential for a strip search through police involvement is absolutely necessary,
- 8.4 Once the police are on the Academy's premises, the decision on whether to conduct a strip search lies solely with them, and the role of the Academy is to advocate for the safety and wellbeing of the student(s)

involved.

8.5 Unless there is an immediate risk of harm and where reasonably possible, staff should inform a parent of the student suspected of concealing an item in advance of the search, even if the parent is not acting as the appropriate adult. Parents should always be informed by a staff member once a strip search has taken place.

8.6 The Academy will keep records of strip searches that have been conducted on Academy premises and monitor them for any trends that emerge

9. The process the police must follow during a strip search

- 9.1 Except in cases of urgency where there is risk of serious harm to the student or others, whenever a strip search involves exposure of intimate body parts there must be at least two people present other than the student, one of which must be the appropriate adult.
- 9.2 If the student's parent would like to be the appropriate adult, the Academy should facilitate this where possible.
- 9.3 Police officers carrying out the search must be of the same sex as the student being searched. An appropriate adult not of the same sex as the student being searched may be present if specifically requested by the student. Otherwise, no-one of a different sex to the student being searched is permitted to be present, and the search must not be carried out in a location where the student could be seen by anyone else.
- 9.4 Except in urgent cases as above, a search of a student may take place without an appropriate adult only if the student explicitly states in the presence of an appropriate adult that they do not want an appropriate adult to be present during the search and the appropriate adult agrees.
- 9.5 A record should be made of the student'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.
- 9.6 Strip searching can be highly distressing for the student involved, as well as for staff and other students affected, especially if undertaken on Academy premises. PACE Code C states that a strip search may take place only if it is considered necessary to remove an item related to a criminal offence, and the officer reasonably considers the student might have concealed such an item.
- 9.7 Strip searches should not be routinely carried out if there is no reason to consider that such items are concealed.

10. After-care following a strip search

- 10.1 Students should be given appropriate support, irrespective of whether the suspected item is found. If an item is found, this may be a police matter, but should always be accompanied by a safeguarding process handled by the Academy which gives attention to the student's wellbeing and involves relevant staff, such as the designated safeguarding lead (or deputy).
- 10.2 Safeguarding should also be at the centre of support following a strip search in which the item is not found, both in the sense of supporting the student to deal with the experience of being searched, and regarding wider issues that may have informed the decision to conduct a strip search in the first place. In both cases, students should feel that they have an opportunity to express their views regarding the strip search and the events surrounding it. Academy staff should give particular consideration to any students who have been strip searched more than once and/or groups of students who are more likely to be subjected to strip searching with unusual frequency, and consider preventative approaches.

8. The power to seize and confiscate items

- 8.1 Big Creative Academy security staff have the power to confiscate, retain, hand to the police or dispose of a learner's property as a disciplinary penalty, where reasonable to do so.
- 8.2 The member of staff can use their discretion to confiscate, retain and/or destroy any prohibited item found as a result of a 'with consent' search so long as it is reasonable in the circumstances.
- 8.3 Where any article is thought to be a weapon or controlled substance (see also Drugs and Substance Misuse Policy) it must be passed to a senior manager or directly to the police. A senior manager must always be informed.

9. Items found as a result of a search

- 9.1 If any prohibited items are found during a search then the learner will be subject to the Learning and Behaviour Policy or Exclusions Policy and may receive a written warning or be suspended or excluded at the discretion of the Principal.

10. Telling parents and dealing with complaints

- 10.1 The Academy will reinforce the whole-school approach by building and maintaining positive relationships with parents.
- 10.2 Parents should always be informed of any search for a prohibited item listed in paragraph that has taken place, and the outcome of the search as soon as is practicable.
- 10.3 A member of staff should inform the parents of what, if anything, has been confiscated and the resulting action the school has taken, including any sanctions applied.
- 10.4 There is no legal requirement to make or keep a record of a search. However good practice is for the Academy to make a record of each search:
- the date, time and location of the search;
 - which pupil was searched;
 - who conducted the search and any other adults or pupils present;
 - what was being searched for;
 - the reason for searching; • what items, if any, were found; and
 - what follow-up action was taken as a consequence of the search.
- 10.5 Complaints about screening or searching should be dealt with through the normal academy complaints procedure