



Action Community Enterprises CIC (ACE)

Searching, Screening and Confiscation Policy



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Action Community Enterprises CIC

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Searching Screening and confiscation Policy

Rationale

ACE remains committed to providing a safe site for staff, students and visitors.

ACE operate a zero tolerance policy regarding weapons or illegal substances on site. All members of ACE's community have a right to learn in a secure and caring environment. ACE is dedicated to providing a learning environment that is secure and supportive so that all individuals can develop academically and socially free from fear of physical threat.

Department of Education has set out information around the powers to carry out consensual and non-consensual searches of students within agreed procedures. Legislation covering powers to search, screen and confiscate property relate to the following legislations below;

- Education Act 1996
- Education and Inspections Act 2006
- Health and Safety at Work Act 1974
- Education Act 2011
- Apprentices, Skills, Children and Learners (ASCL) Act 2009
- Further Education Institutions and 16-19 Academies (Specification and Disposal of Articles) Regulations 2012
- Further and Higher Education Act 1992 Misuse of Drugs Act 1971

Aim

This policy is provided to instil confidence in staff to use those powers if and when needed and in particular the use of the power to search students without consent. It explains the powers staff have to seize and then confiscate prohibited items found during a search.

The aim of the policy is to allow a transparent and fair procedure to be implemented to inform staff, students and visitors as to the policy on searching, screening and confiscation

- This policy will inform staff of their powers in relation to the searching of students
- To advise on actions to be undertaken when material or items are found
- To inform how information will be recorded and saved.

Searching Process

The CEO, Managing Director (MD) and authorised senior staff can search any student for any item with the students consent. Senior staff means any adult who is employed at ACE who is in a position of responsibility or authority with regard to the centre.

ACE have authorised a number of staff to undertake searches of students and their possessions. These staff members have received training on the legislation and principals related to searching. A list of those staff authorised to search students is held on a database. The authorised staff have the statutory power to search students, or their possessions, with or without consent where they have reasonable grounds for suspecting that the student may have a prohibited item in their possession.

Prohibited items ;

- Knives or weapons
- Alcohol
- Illegal drugs
- Stolen items
- Fireworks, firecrackers, stink bombs
- Tobacco and cigarette papers (for school age students 12-16)
- Pornographic images
- Authorised staff can also search for any item banned by ACE guidelines which has been identified in the rules as an item which may be searched for.

Confiscation

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 ACE, staff and students.

Screening

Authorised staff can require students to undergo screening by a handheld metal detector (arch or wand) even if they do not suspect them of having a weapon and without the consent of the student. ACE make rules on student behaviour and their duty as an employer to manage the safety of staff, students and visitors enables them to impose a requirement that students undergo screening if needed.

If a student refuses to be screened, ACE may refuse to have a student on the premises. Health and Safety legislation requires minimal exposure to risks for all staff, students and volunteers. ACE have a duty of care therefore would include making reasonable rules as a condition of admittance. If a student fails to comply, and ACE does not let the student in, this means ACE has not excluded the student and the student's absence will be treated as unauthorised.

In the case of a student being school aged then the guidelines set out in the Safeguarding Policy should be adhered to regarding the duty of care to the student and ensuring their safe return home or making arrangements with a parent/carer to facilitate the students' care.

Searching with consent

ACE staff have a common law power to search students, with their consent, for any item. Staff are not required to have formal written consent from the student for this type of search. It is enough for the member of staff to ask the student to turn out their pockets or to allow the member of staff to look in the student's bag or locker with the agreement of the student. In undertaking a search with consent any vulnerability of the student should be considered such as any Special Educational Needs (SEN) or learning difficulties. In these circumstances a TA will support the student and where needed to assist in any search.

It is the policy of ACE that this type of search will be recorded onto the Safeguarding and Concerns Log.

Searching without consent

Legislation sets out the powers a member of staff has in regard to searching a student without consent. Senior staff members can only undertake a search without consent if they have reasonable grounds for suspecting that a student may have in their possession a prohibited item.

The staff member must decide in each particular case what constitutes reasonable grounds for suspicion. An example may be overhearing students talking about being in possession of a prohibited item or a student behaving in a way causing suspicions to be raised. As with a search with consent, consideration must be given to any additional support needs that the learner may have. This type of search would again require the completion of a search record, or an e-mail covering the information, which should be forwarded to the designated safeguarding lead, or officers.

During the search

The staff member conducting the search will be the same sex as the student being searched. There will be a witness (also a staff member) and, if possible, they will also be the same sex as the student being searched. It is best practice to undertake any search of a student while another member of staff is present.

As far as the situation dictates, and within reason, the views of the person being searched as to the sex of the person conducting the search should be taken into consideration being mindful of the Equality and Diversity Policy. An example of this would be an individual who identifies themselves with a certain gender. A limited exception to this rule is, only when 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.

The member of staff conducting the search may not require the student 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.

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 products, fireworks, pornographic images or articles that may have been or could be used to commit an offence or cause harm. If a student refuses to be searched then best practice will be to inform the student that, given the circumstances, the Police will be contacted to seek support in undertaking the search.

After the search

A staff member 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 they find knives or weapons, these must be delivered or reported to the police for their collection.

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. A good reason for disposal may be due to practicalities i.e. Staff and student are

away from college premises and the quantity of drugs is minimal. In this scenario it may be reasonable to dispose of the drugs but the disposal should be witnessed by two members of staff to maintain integrity.

Where they find other substances which are not believed to be controlled drugs these can be confiscated where a member of staff 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 i.e. prescription medication not prescribed for the person possessing.

Where they find stolen items, these must be delivered to the police as soon as reasonably practicable or collected by them. Items 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 searching thinks that there is a good reason to do so. An example of this is where the monetary value is low. An example would be a magazine or hairbrush.

In relation to students under 18 where a search finds alcohol, fireworks or pornographic image this may be retained or disposed of. This means the college can dispose of as they think appropriate but this should not include returning it to the student. The same applies if a student under 16 is searched and tobacco products are found.

If a member of staff finds a pornographic image, that an individual should not possess, 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 reported to the Police and collected by them and instructed.

If images are discovered that do not constitute an offence but staff believe may have a negative impact on the student then this should be referred to the Safeguarding lead or designated officers.

In the instance of images being found that could possibly constitute an offence DO NOT copy, forward or otherwise alter the image(s).

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 retained or disposed of.

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.

Administration

There is no statutory duty for staff to inform parents or carers of students aged under 18 before a search takes place or to seek their consent to search their child. Consideration should be given to contacting parents/ carers where there are concerns related to the students' ability to understand the process being undertaken and advice sought from senior staff.

There is no legal requirement to make or keep a record of a search but it is ACE's policy to record any search conducted. Included in any record of a search should be the grounds for conducting the search and the object that was being searched for. Staff should identify those staff members involved in the search and whether any item was found. If an item is found the record should contain information as to the disposal or retention of it. This record will be kept on the Safeguarding and Concerns Log.

There is no legal requirement to do so but policy will be that when a student under 18 is searched then the parents/ carers will be contacted.