



Sleights Church of England  
(Voluntary Controlled) Primary School

# **Peer on peer abuse, including sexual violence and sexual harassment Policy**

September 2018

**This policy also provides guidance on searching, screening and confiscation in relation to peer on peer abuse, sexual violence and/or sexual harassment.**

This policy should be followed in conjunction with the 'Child Protection Policy'

Children can abuse other children. This is generally referred to as peer on peer abuse and can take many forms. This can include (but is not limited to) bullying (including cyberbullying); sexual violence and sexual harassment; physical abuse such as hitting, kicking, shaking, biting, hair pulling, or otherwise causing physical harm; sexting and initiating/hazing type violence and rituals.

All staff should recognise that children are capable of abusing their peers. All staff should be clear about their school's policy and procedures with regard to peer on peer abuse. This policy has been devised in response to the 2018 Keeping Children Safe in Education amendments.

### **Introduction**

The Governors, Senior Leadership Team, and all staff and volunteers at Sleights Church of England (Voluntary Controlled) Primary School (the School) are committed to the prevention, early identification and appropriate management of peer-on-peer abuse (as defined below) both within and beyond the School.

Peer-on-peer abuse includes:

- bullying (including cyberbullying);
- physical abuse such as hitting, kicking, shaking, biting, hair pulling, or otherwise causing physical harm;
- sexual violence and sexual harassment;
- sexting (also known as youth produced sexual imagery);
- initiation/hazing type violence and rituals.

It is essential that all abuse should always be treated seriously and never as 'banter', or part or growing up.

In particular, we:

- believe that in order to protect children, all schools should
  - (a) be aware of the level and nature of risk to which their pupils are, or may be exposed, and put in place a clear and comprehensive strategy which is tailored to their specific safeguarding context; and
  - (b) take a contextual whole-school approach to preventing and responding to peer-on-peer abuse;
- regard the introduction of this policy as a preventative measure, and do not feel it is acceptable merely to take a reactive approach to peer-on-peer abuse in response to alleged incidents of it;
- recognise national and increasing concern about this issue, and wish to implement this policy in order to ensure that our pupils are safe; and
- encourage parents to hold us to account on this issue, so that if their child is feeling unsafe as a result of the behaviour of any of their peers, they should inform the School so that it can ensure that appropriate and prompt action is taken in response.

### **This policy**

This policy:

- sets out our strategy for preventing, identifying and appropriately managing peer-on-peer abuse
- applies to all stakeholders at Sleights, including Governors, families, staff, volunteers and children.
- is reviewed annually, and updated in the interim, as may be required, to ensure that it continually addresses the risks to which pupils are or may be exposed. Staff, governors and pupils are involved in each annual review, which involves and is informed by an assessment of the impact and effectiveness of this policy over the previous year;
- is the School's overarching policy for any issue that could constitute peer-on-peer abuse. It relates to, and should be read alongside, the School's Child Protection policy and any other relevant policies including, but not limited to, bullying (including cyber-bullying), children missing in education
- recognises that all peer on peer abuse is unacceptable and will be taken. The policy does also acknowledge the statement in 2018 Keeping Children Safe in Education "recognition of the

gendered nature of peer on peer abuse (i.e. that it is more likely that girls will be victims and boys perpetrators)

- approaches all individuals involved in allegations of or concerns about peer-on-peer abuse, including those who are alleged to have been abused and those who are alleged to have abused their peers, in addition to any sanctioning work that may also be required for the latter.
- uses the terms 'child' and 'children', which is defined for the purposes of this policy as a person aged under 18.
- is compliant with the statutory guidance on peer-on-peer abuse as set out in Keeping Children Safe in Education (September 2018);
- should, if relevant according to the concerns/allegations raised, be read in conjunction with the DfE's advice on Sexual Violence and Sexual Harassment Between Children in Schools (DfE's Advice) and any other advice and guidance referred to within it, as appropriate;
- should be read in conjunction with the Local Safeguarding Children Board's (LSCB) Safeguarding Policy and Procedures, and any relevant Practice Guidance issued by it.

## **Understanding peer-on-peer abuse**

Peer-on-peer abuse is any form of physical, sexual, emotional and financial abuse, and coercive control, exercised between children and within children's relationships (both intimate and non-intimate).

Keeping Children Safe in Education (2018) states that it is most likely to include, but may not be limited to:

- bullying (including cyberbullying);
- physical abuse such as hitting, kicking, shaking, biting, hair pulling, or otherwise causing physical harm;
- sexual violence and sexual harassment;
- sexting (also known as youth produced sexual imagery);
- initiation/hazing type violence and rituals.

These types of abuse rarely take place in isolation and often indicate wider safeguarding concerns. Equally, sexual bullying in schools and other settings can result in the sexual exploitation of children by their peers.

Children's experiences of abuse and violence are rarely isolated events, and they can often be linked to other things that are happening in their lives and spaces in which they spend their time. Any response to peer-on-peer abuse therefore needs to consider the range of possible types of peer-on-peer abuse set out above and capture the full context of children's experiences. To ensure this is adopted, at Sleights, we will undertake a Contextual Safeguarding approach in our response to allegations of peer-on-peer abuse.

## **What is Contextual Safeguarding?**

Following guidance from Keeping Children Safe in Education (2018), this policy encapsulates a Contextual Safeguarding approach, which:

- is an approach to safeguarding children that recognises their experiences of significant harm in extra-familial contexts, and seeks to include these contexts within prevention, identification, assessment and intervention safeguarding activities;
- recognises that as children enter adolescence they spend increasing amounts of time outside of the home in public environments (including on the internet) within which they may experience abuse; and
- considers interventions to change the systems or social conditions of the environments in which abuse has occurred. For example, rather than move a child from a school, professionals could work with the school leadership and student body to challenge harmful, gendered school cultures, thus improving the pre-existing school environment.

## **How can a child who is being abused by their peers be identified?**

All staff should be alert to the well-being of pupils and to signs of abuse, and should engage with these signs, as appropriate, to determine whether they are caused by peer-on-peer abuse. However, staff should be mindful of the fact that the way(s) in which children will disclose or present with behaviour(s) as a result of their experiences will differ. Signs that a child may be suffering from peer-on-peer abuse can also overlap with those indicating other types of abuse and can include:

- failing to attend school, disengaging from classes or struggling to carry out school related tasks to the standard ordinarily expected;
- physical injuries;
- experiencing difficulties with mental health and/or emotional wellbeing;
- becoming withdrawn and/or shy; experiencing headaches, stomach aches, anxiety and/or panic attacks; suffering from nightmares or lack of sleep or sleeping too much;
- broader changes in behaviour including alcohol or substance misuse;
- changes in appearance and/or starting to act in a way that is not appropriate for the child's age;
- abusive behaviour towards others.

Abuse affects children very differently. The above list is by no means exhaustive and the presence of one or more of these signs does not necessarily indicate abuse. The behaviour that children present with will depend on their particular circumstances. Rather than checking behaviour against a list, staff are trained to be alert to behaviour that might cause concerns, to think about what the behaviour might signify, to encourage children to share with them any underlying reasons for their behaviour, and, where appropriate, to engage with their parents/carers so that the cause(s) of their behaviour can be investigated.

Where a child exhibits any behaviour that is out of character or abnormal for his/her age, staff should always consider whether an underlying concern is contributing to their behaviour (for example, whether the child is being harmed or abused by their peers) and, if so, what the concern is and how the child can be supported going forwards

## **A whole school approach**

### **How will Sleights School raise awareness of and prevent peer-on-peer abuse?**

The School actively seeks to raise awareness of and prevent all forms of peer-on-peer abuse by:

- Educating all Governors, staff and volunteers, pupils and families about this issue. This includes:
  - training all Governors, staff and volunteers on the nature, prevalence and effect of peer-on-peer abuse, and how to prevent, identify and respond to it.
  - This includes
    - Contextual Safeguarding;
    - the identification and classification of specific behaviours; and
- Instilling the importance of taking seriously all forms of peer-on-peer abuse (no matter how low level they may appear) and ensuring that no form of peer-on-peer abuse is ever dismissed as horseplay or teasing.
- Pupils are frequently told what to do if they witness or experience such abuse.
- Pupils are regularly informed about the School's approach to such issues, including its zero tolerance policy towards all forms of peer-on-peer abuse.
- Engaging parents on this issue by:
  - talking about it with parents, both in groups and one to one;
  - asking parents what they perceive to be the risks facing their child and how they would like to see the School address those risks;
  - involving parents in the review of School policies and lesson plans; and
  - encouraging parents to hold the School to account on this issue.
- Ensuring that all peer-on-peer abuse issues are fed back to the School's DSL and Deputy, so that they can spot and address any concerning trends and identify pupils who may be in need of additional support.
- challenging the attitudes that underlie such abuse (both inside and outside the classroom);
- working with Governors, all staff and volunteers, pupils and families to address equality issues, to promote positive values, and to encourage a culture of tolerance and respect amongst all members of the School community;
- creating conditions in which our pupils can aspire to and realise safe and healthy relationships;
  - creating a culture in which our pupils feel able to share their concerns openly, in a non-judgmental environment, and have them listened to; and
- responding to cases of peer-on-peer abuse promptly and appropriately.

## **Multi-agency working**

The School actively engages with its local partners in relation to peer-on-peer abuse, and works closely with a range of agencies, including the prevention service (Children's Centre), other schools, children's social care, and/or other relevant agencies.

The relationships the School has built with these partners are essential to ensuring that the School is able to prevent, identify early and appropriately handle cases of peer-on-peer abuse. They help the School

- to develop a good awareness and understanding of the different referral pathways that operate in its local area, as well as the preventative and support services which exist;
- to ensure that our families and pupils are able to access the range of services and support they need quickly;
- to support and help inform our local community's response to peer-on-peer abuse;
- to increase our awareness and understanding of any concerning trends and emerging risks in our local area to enable us to take preventative action to minimise the risk of these being experienced by our pupils.

The School actively refers concerns/allegations of peer-on-peer abuse where necessary to relevant agencies. This is particularly important because peer-on-peer abuse can be a complex issue, and even more so where wider safeguarding concerns exist. It is often not appropriate for one single agency (where the incident cannot be managed internally) to try to address the issue alone – it requires effective partnership working.

## **Responding to concerns or allegations of peer-on-peer abuse**

### **General Principles**

It is essential that all concerns/allegations of peer-on-peer abuse are handled sensitively, appropriately and promptly. The way in which they are responded to can have a significant impact on our School environment. Any response should:

- include a thorough investigation of the concerns/allegations and the wider context in which they may have occurred (as appropriate);
- treat all children involved as being at potential risk - while the child allegedly responsible for the abuse may pose a significant risk of harm to other children, s/he may also have considerable unmet needs and be at risk of harm themselves.
- Ensure a safeguarding response is in place for both the child who has allegedly experienced the abuse, and the child who has allegedly been responsible for it, and additional sanctioning work may be required for the latter;
- take into account:
  - that the abuse may indicate wider safeguarding concerns for any of the children involved, and consider and address the effect of wider socio-cultural contexts - such as the child's/children's peer group (both within and outside the School);
  - family;
  - the School environment;
  - their experience(s) of crime and victimisation in the local community;
  - and the child/children's online presence.
- Consider what changes may need to be made to these contexts to address the child's/children's needs and to mitigate risk
- the views of the child/children affected. Unless it is considered unsafe to do so (for example, where a referral needs to be made immediately), the DSL should discuss the proposed action with the child/children and their parents and obtain consent to any referral before it is made.
- The School should manage the child/children's expectations about information sharing, and keep them and their parents informed of developments, where appropriate and safe to do so.

### **What should you do if you suspect either that a child may be at risk of or experiencing abuse by their peer(s), or that a child may be at risk of abusing or may be abusing their peer(s)?**

If a pupil is in immediate danger, or at risk of significant harm, a referral to children's social care (if the pupil is aged under 18) and/or the police should be made immediately. Anyone can make a referral.

Where referrals are not made by the DSL, the DSL should be informed as soon as possible that a referral has been made.

If a member of staff thinks for whatever reason that a child may be at risk of or experiencing abuse by their peer(s), or that a child may be at risk of abusing or may be abusing their peer(s), they should discuss their concern with the DSL without delay, so that a course of action can be agreed.

If a child speaks to a member of staff about peer-on-peer abuse that they have witnessed or are a part of, the member of staff should listen to the child and use open language that demonstrates understanding rather than judgement.

### **How will the School respond to concerns or allegations of peer-on-peer abuse?**

The DSL will discuss the concerns or allegations with the member of staff who has reported them and will, where necessary, take any immediate steps to ensure the safety of the child/all children affected. DSLs should always use their professional judgement to determine whether it is appropriate for alleged behaviour to be dealt with internally and, if so, whether any external specialist support is required.

In borderline cases, the DSL may wish to consult with children's social care and/or any other external agencies on a no-names basis to determine the most appropriate response. These may include:

- **Manage internally with help from external specialists where appropriate and possible:** In these cases, the School will engage and seek advice from external specialists
- **Undertake/contribute to an inter-agency early help assessment, with targeted early help services provided to address the assessed needs of a child/children and their family:** These services may, for example, include CAMHS, a specialist harmful sexual behaviour team, and/or youth offending services.
- **Refer child/children to children's social care for a section 17 and/or 47 statutory assessment:** As a matter of best practice, if an incident of peer-on-peer abuse requires referral to and action by children's social care and a strategy meeting is convened, then the School will hold every professional involved in the case accountable for their safeguarding response, including themselves, to both the child who has experienced the abuse, and the child who was responsible for it, and the contexts to which the abuse was associated.
- **Report alleged criminal behaviour to the Police:** Alleged criminal behaviour will ordinarily be reported to the Police. However, there are some circumstances where it may not be appropriate to report such behaviour to the Police. All concerns/allegations will be assessed on a case by case basis, and in light of the wider context.

### **Individual risk and needs assessment**

Where there is an incident of peer-on-peer abuse, the School will carry out a robust risk and needs assessment in respect of each child affected by the abuse. These risk assessments will:

- assess and address the nature and level of risks that are posed and/or faced by the child;
- engage the child's parents and draw upon local services and agencies to ensure that the child's needs are met in the long-term. Consider whether any targeted interventions are needed to address the underlying attitudes or behaviour of any child; and
- be reviewed at regular intervals in light of the child's on-going needs to ensure that real progress is being made which benefits the child.

If at any stage the child's needs escalate, the DSL should engage in external support (Prevention/CAMHS/social care etc.) to determine the appropriate course of action.

### **Disciplinary action**

The School will consider whether disciplinary action may be appropriate for any child/children involved – any such action should address the abuse, the causes of it, and attitudes underlying it. Disciplinary action may sometimes be appropriate. However, before deciding on appropriate action the School will always consider its duty to safeguard all children from harm; the underlying reasons for a child's behaviour; any unmet needs, or harm or abuse suffered by the child; the risk that the child may pose to other children; and the severity of the peer-on-peer abuse and the causes of it.

The School will, where appropriate, consider the potential benefit, as well as challenge, of using managed moves or exclusion as a response, and not as an intervention, recognising that even if this is ultimately deemed to be necessary, some of the measures referred to in this policy may still be required. Exclusion will only be considered as a last resort and only where necessary to ensure the safety and wellbeing of the other children in the School.

### **On-going proactive work to a contextual whole-school approach**

The School's response to concerns/allegations of peer-on-peer abuse should be part of on-going proactive work by the School to embed best practice and take a contextual whole-school approach to such abuse. As such the School's response can become part of its wider prevention work. This response may include the School asking itself a series of questions about the context in which an incident of peer-on-peer abuse occurred in the School, the local community in which the School is based, and the wider physical and online environment - such as:

- what protective factors and influences exist within the School (such as positive peer influences, examples where peer-on-peer abuse has been challenged etc.) and how can the School bolster these?;
- how (if at all) did the School's physical environment contribute to the abuse, and how can the School address this going forwards, for example by improving the School's safety, security and supervision?;
- did wider gender norms, equality issues and/or societal attitudes contribute to the abuse?;
- what was the relationship between the abuse and the cultural norms between staff and pupils and how can these be addressed going forwards?;
- does the abuse indicate a need for staff training on, for example, underlying attitudes, a particular issue or the handling of particular types of abuse?;
- how have similar cases been managed in the past and what effect has this had?;
- does the case or any identified trends highlight areas for development in the way in which the School works with children to raise their awareness of and/or prevent peer-on-peer abuse, including by way of the School's PSHE curriculum and lessons that address underlying attitudes or behaviour such as gender and equalities work?;
- are there any lessons to be learnt about the way in which the School engages with parents to address peer-on-peer abuse issues?;
- are there underlying issues that affect other schools in the area and is there a need for a multi-agency response?;
- does this case highlight a need to work with certain children to build their confidence and teach them how to identify and manage abusive behaviour?; and
- were there opportunities to intervene earlier or differently and/or to address common themes amongst the behaviour of other children in the School?

Answers to these questions can be developed into an action plan that is reviewed on a regular basis by school leadership and the DSL.

### **Educating children**

- Children at Sleights will engage in regular activities to develop and support their understanding of peer on peer abuse and how it should be reported.
- This will take the form of taught sessions, circle times, collective worships and external visitors.
- In addition, through regular PHSCE sessions, children will engage in a range of activities to ensure they understand how to stay safe and how to report/get help if it is needed.

## **Responding to concerns or allegations of sexual harassment and violence**

*This section is written with guidance from the 2018 Keeping Children Safe in Education document.*

Reports of sexual violence and sexual harassment are likely to be complex and require difficult professional decisions to be made, often quickly and under pressure. Preplanning, effective training and effective policies will provide Sleights staff with the foundation for a calm, considered and appropriate response to any reports.

This part of the guidance does not attempt to provide (nor would it be possible to provide) detailed guidance on what to do in any or every particular case. The guidance provides effective safeguarding practice and principles for Sleights staff to consider in their decision making process. Ultimately, any decisions are for the school to make on a case-by-case basis, with the designated safeguarding lead (or a deputy) taking a leading role and using their professional judgement, supported by other agencies, such as children's social care and the police as required.

### **Responding to the report**

The school's initial response to a report from a child is important. It is essential that all victims are reassured that they are being taken seriously and that they will be supported and kept safe. A victim should never be given the impression that they are creating a problem by reporting sexual violence or sexual harassment. Nor should a victim ever be made to feel ashamed for making a report. Reports should be passed to the Designated Safeguarding Lead, or Deputy.

Effective safeguarding practice includes:

- not promising confidentiality at this initial stage as it is very likely a concern will have to be shared further (for example, with the designated safeguarding lead or children's social care) to discuss next steps. Staff should only share the report with those people who are necessary in order to progress it. It is important that the victim understands what the next steps will be and who the report will be passed to;
- recognising a child is likely to disclose to someone they trust: this could be anyone on the school staff. It is important that the person to whom the child discloses recognises that the child has placed them in a position of trust. They should be supportive and respectful of the child;
- listening carefully to the child, being non-judgmental, being clear about boundaries and how the report will be progressed, not asking leading questions and only prompting the child where necessary with open questions – where, when, what, etc;
- Once the child has disclosed details in full, staff should immediately write up a thorough summary. This allows the staff member to devote their full attention to the child and to listen to what they are saying. It may be appropriate to make notes during the report (especially if a second member of staff is present). However, if making notes, staff should be conscious of the need to remain engaged with the child and not appear distracted by the note taking. Either way, it is essential a written record is made;
- only recording the facts as the child presents them. The notes should not reflect the personal opinion of the note taker. Staff should be aware that notes of such reports could become part of a statutory assessment by children's social care and/or part of a criminal investigation;
- where the report includes an online element, being aware of searching screening and confiscation advice (for schools) and UKCCIS sexting advice (for schools). The key consideration is for staff not to view or forward illegal images of a child. The highlighted advice provides more details on what to do when viewing an image is unavoidable.
- if possible, managing reports with two members of staff present, (preferably one of them being the designated safeguarding lead or a deputy). However, this might not always be possible and informing the designated safeguarding lead (or deputy), as soon as practically possible, if the designated safeguarding lead (or deputy) is not involved in the initial report.

### **Risk Assessment**

When there has been a report of sexual violence, the designated safeguarding lead (or a deputy) should make an immediate risk and needs assessment. Where there has been a report of sexual harassment, the need for a risk assessment should be considered on a case-by-case basis. The risk and needs assessment should consider:

- the victim, especially their protection and support;

- the alleged perpetrator; and
- all the other children (and, if appropriate, adult students and staff) at the school, especially any actions that are appropriate to protect them;

Risk assessments should be recorded (written or electronic) and should be kept under review. At all times, the school should be actively considering the risks posed to all their pupils and students and putting adequate measures in place to protect them and keep them safe.

The designated safeguarding lead (or a deputy) should ensure they are engaging with children's social care and specialist services as required. Where there has been a report of sexual violence, it is likely that professional risk assessments by social workers and or sexual violence specialists will be required. Any such professional assessments should be used to inform the school's approach to supporting and protecting their pupils and students and updating their own risk assessment.

## **Action following a report of sexual violence and/or sexual harassment**

### **What to consider**

Staff should carefully consider any report of sexual violence and/or sexual harassment. The designated safeguarding lead (or deputy) is likely to have a complete safeguarding picture and be the most appropriate person to advise on the school's initial response. Important considerations will include:

- the wishes of the victim in terms of how they want to proceed. This is especially important in the context of sexual violence and sexual harassment. Victims should be given as much control as is reasonably possible over decisions regarding how any investigation will be progressed and any support that they will be offered;
- the nature of the alleged incident(s), including: whether a crime may have been committed and consideration of harmful sexual behaviour;
- the ages of the children involved;
- the developmental stages of the children involved;
- any power imbalance between the children. For example, is the alleged perpetrator significantly older, more mature or more confident? Does the victim have a disability or learning difficulty?;
- if the alleged incident is a one-off or a sustained pattern of abuse; • are there ongoing risks to the victim, other children, adult students or school staff; and
- other related issues and wider context.

Immediate consideration should be given as to how best to support and protect the victim and the alleged perpetrator (and any other children involved/impacted). The starting point regarding any report should always be that sexual violence and sexual harassment is not acceptable and will not be tolerated. Especially important is not to pass off any sexual violence or sexual harassment as 'banter', 'part of growing up' or 'having a laugh'.

### **Options to manage the report**

It is important that staff consider every report on a case-by-case basis as per paragraph. When to inform the alleged perpetrator will be a decision that should be carefully considered. Where a report is going to be made to children's social care and/or the police, then, as a general rule, the school should speak to the relevant agency and discuss next steps and how the alleged perpetrator will be informed of the allegations. However, as per general safeguarding principles, this does not and should not stop the school taking immediate action to safeguard their children, where required.

There are four likely scenarios for the school to consider when managing any reports of sexual violence and/or sexual harassment. Whatever the school's response, it should be underpinned by the principle that sexual violence and sexual harassment is never acceptable and will not be tolerated. All concerns, discussions, decisions and reasons for decisions should be recorded (written or electronic).

### **Manage internally**

In some cases of sexual harassment, for example, one-off incidents, the school may take the view that the children concerned are not in need of early help or statutory intervention and that it would be appropriate to handle the incident internally, perhaps through utilising their behaviour and bullying policies and by providing pastoral support.

### **Early help**

In line with above, the school may decide that the children involved do not require statutory interventions, but may benefit from early help. Early help means providing support as soon as a problem emerges, at any point in a child's life. Providing early help is more effective in promoting the welfare of children than reacting later. Early help can be particularly useful to address non-violent harmful sexual behaviour and may prevent escalation of sexual violence. Multi-agency early help will work best when placed alongside strong school policies, preventative education and engagement with parents and carers.

### **Referrals to children's social care**

Where a child has been harmed, is at risk of harm, or is in immediate danger, the school should make a referral to local children's social care. At the referral to children's social care stage, schools will generally inform parents or carers, unless there are compelling reasons not to (if informing a parent or carer is going to put the child at additional risk). Any such decision should be made with the support of children's social care. If a referral is made, children's social care will then make enquiries to determine whether any of the children involved are in need of protection or other services.

Where statutory assessments are appropriate, the school (especially the designated safeguarding lead or a deputy) should be working alongside, and cooperating with, the relevant lead social worker. Collaborative working will help ensure the best possible package of coordinated support is implemented for the victim and, where appropriate, the alleged perpetrator and any other children that require support. The school should not wait for the outcome (or even the start) of a children's social care investigation before protecting the victim and other children in the school. It will be important for the designated safeguarding lead (or a deputy) to work closely with children's social care (and other agencies as required) to ensure any actions the school takes do not jeopardise a statutory investigation.

Consideration of safeguarding the victim, alleged perpetrator, any other children directly involved in the safeguarding report and all children at the school should be immediate. In some cases, children's social care will review the evidence and decide a statutory intervention is not appropriate. The school (generally led by the designated safeguarding lead or a deputy) should be prepared to refer again if they believe the child remains in immediate danger or at risk of harm. If a statutory assessment is not appropriate, the designated safeguarding lead (or a deputy) should consider other support mechanisms such as early help, specialist support and pastoral support.

### **Reporting to the Police**

Any report to the police will generally be in parallel with a referral to children's social care (as above). It is important that the designated safeguarding lead (and their deputies) is clear about the local process for referrals and follow that process.

Where a report of rape, assault by penetration or sexual assault is made, the starting point is this should be passed on to the police. Whilst the age of criminal responsibility is ten, if the alleged perpetrator is under ten, the starting principle of reporting to the police remains. The police will take a welfare, rather than a criminal justice, approach. At this stage, the school will generally inform parents or carers unless there are compelling reasons not to, for example, if informing a parent or carer is likely to put a child at additional risk. In circumstances where parents or carers have not been informed, it will be especially important that the school is supporting the child in any decision they take. This should be with the support of children's social care and any appropriate specialist agencies.

Where a report has been made to the police, the school should consult the police and agree what information can be disclosed to staff and others, in particular, the alleged perpetrator and their parents or carers. They should also discuss the best way to protect the victim and their anonymity. • All police forces in England have specialist units that investigate child abuse. The names and structures of these units are matters for local forces. It will be important that the designated safeguarding lead (and their deputies) is aware of their local arrangements.

In some cases, it may become clear very quickly, that the police (for whatever reason) will not take further action. In such circumstances, it is important that the school continues to engage with specialist support for the victim as required.

From April 2017, the use of police bail has been dramatically reduced and will only be used when deemed necessary and proportionate in exceptional circumstances. Consideration will be given to less invasive options to safeguard victims and witnesses and the administration of justice. Therefore, it is less likely that a child attending school will be on police bail with conditions attached if there are alternative measures to mitigate any risk. In the absence of bail conditions, when there is a criminal investigation, early engagement and joined up working between the school, children's social care and the police will be critical to support the victim, alleged perpetrator and other children involved (especially potential witnesses). Where required, advice from the police should be sought in order to help the school manage their safeguarding responsibilities.

Where bail is deemed proportionate and necessary, the school should work with children's social care and the police to manage any implications and safeguard their children. An important consideration will be to ensure that the victim can continue in their normal routine, including continuing to receive a suitable education. Managing any delays in the criminal process. There may be delays in any case that is being progressed through the criminal justice system. The school should not wait for the outcome (or even the start) of a police investigation before protecting the victim, alleged perpetrator and other children in the school.

Whilst protecting children and/or taking any disciplinary measures against the alleged perpetrator, it will be important for the designated safeguarding lead (or a deputy) to work closely with the police (and other agencies as required), to ensure any actions the school take do not jeopardise the police investigation.

### **The end of the criminal process**

If a child is convicted or receives a caution for a sexual offence, the school should update its risk assessment, ensure relevant protections are in place for all the children at the school and, if it has not already, consider any suitable action in light of their behaviour policy. If the perpetrator remains in the same school as the victim, the school should be very clear as to their expectations regarding the perpetrator now they have been convicted or cautioned.

This could include expectations regarding their behaviour and any restrictions the school thinks are reasonable and proportionate with regard to the perpetrator's timetable. Any conviction (even with legal anonymity reporting restrictions) is potentially going to generate interest among other pupils or students in the school. It will be important that the school ensure both the victim and alleged perpetrator remain protected, especially from any bullying or harassment (including online).

Where cases are classified as "no further action" (NFA'd) by the police or Crown Prosecution Service, or where there is a not guilty verdict, the school should continue to offer support to the victim and the alleged perpetrator for as long as is necessary. A not guilty verdict or a decision not to progress with their case will likely be traumatic for the victim. The fact that an allegation cannot be substantiated does not necessarily mean that it was unfounded. Schools should discuss any decisions with the victim in this light and continue to offer support. The alleged perpetrator is also likely to require ongoing support for what will have likely been a difficult experience.

### **Ongoing response Safeguarding and supporting the victim**

The following principles are based on effective safeguarding practice and should help shape any decisions regarding safeguarding and supporting the victim.

Consider the age and the developmental stage of the victim, the nature of the allegations and the potential risk of further abuse. Schools should be aware that, by the very nature of sexual violence and sexual harassment, a power imbalance is likely to have been created between the victim and alleged perpetrator. The needs and wishes of the victim should be paramount (along with protecting the child) in any response. It is important they feel in as much control of the process as is reasonably possible. Wherever possible, the victim, if they wish, should be able to continue in their normal routine. Overall, the priority should be to make the victim's daily experience as normal as possible, so that the school is a safe space for them.

The victim should never be made to feel they are the problem for making a report or made to feel ashamed for making a report. Consider the proportionality of the response. Support should be tailored

on a case-by-case basis. The support required regarding a one-off incident of sexualised name-calling is likely to be vastly different from that for a report of rape.

Support can include:

- Children and Young People's Independent Sexual Violence Advisors (ChISVAs)
- Rape Crisis and The Survivors Trust.
- Child and adolescent mental health services (CAMHS)
- Rape Crisis Centre's can provide therapeutic support for children who have experienced sexual violence.
- Internet Watch Foundation (to potentially remove illegal images)

Victims may not disclose the whole picture immediately. They may be more comfortable providing information on a piecemeal basis. It is essential that dialogue is kept open and encouraged. When it is clear that ongoing support will be required, schools should ask the victim if they would find it helpful to have a designated trusted adult (for example, their form tutor or designated safeguarding lead) to talk to about their needs. The choice of any such adult should be the victim's. Schools should respect and support this choice. A victim of sexual violence is likely to be traumatised and, in some cases, may struggle in a normal classroom environment. While schools should avoid any action that would have the effect of isolating the victim, in particular from supportive peer groups, there may be times when the victim finds it difficult to maintain a full-time timetable and may express a wish to withdraw from lessons and activities. This should be because the victim wants to, not because it makes it easier to manage the situation. If required, schools should provide a physical space for victims to withdraw.

It may be necessary for schools to maintain arrangements to protect and support the victim for a long time. Schools should be prepared for this and should work with children's social care and other agencies as required. It is important that the school does everything they reasonably can to protect the victim from bullying and harassment as a result of any report they have made. Whilst they should be given all the necessary support to remain in their school, if the trauma results in the victim being unable to do this, alternative provision or a move to another school should be considered to enable them to continue to receive suitable education. This should only be at the request of the victim (and following discussion with their parents or carers).

It is important that if the victim does move to another educational institution (for any reason), that the new educational institution is made aware of any ongoing support needs. The designated safeguarding lead should take responsibility to ensure this happens (and should discuss with the victim and, where appropriate their parents or carers as to the most suitable way of doing this) as well as transferring the child protection file.

### **Safeguarding and supporting the alleged perpetrator**

The following principles are based on effective safeguarding practice and should help shape any decisions regarding safeguarding and supporting the alleged perpetrator:

- The school will have a difficult balancing act to consider. On one hand they need to safeguard the victim (and the wider pupil/student body) and on the other hand provide the alleged perpetrator with an education, safeguarding support as appropriate and implement any disciplinary sanctions.
- Consider the age and the developmental stage of the alleged perpetrator and nature of the allegations. Any child will likely experience stress as a result of being the subject of allegations and/or negative reactions by their peers to the allegations against them.
- Consider the proportionality of the response. Support (and sanctions) should be considered on a case-by-case basis. An alleged perpetrator may potentially have unmet needs (in some cases these may be considerable) as well as potentially posing a risk of harm to other children. Harmful sexual behaviours in young children may be a symptom of either their own abuse or exposure to abusive practices and or materials.
- Advice should be taken, as appropriate, from children's social care, specialist sexual violence services and the police.
- It is important that if the alleged perpetrator does move to another school (for any reason), that the new school is made aware of any ongoing support needs and where appropriate, potential risks to other children and staff. The designated safeguarding lead should take responsibility to ensure this happens as well as transferring the child protection file.

## **Responding to concerns or allegations of sexting (also known as youth produced sexual imagery)**

*This guidance is produced using "Sexting in Schools" from the UK Council for Child Internet Safety*

### **Defining 'sexting'**

Whilst professionals refer to the issue as 'sexting' there is no clear definition of 'sexting'.

Many professionals consider sexting to be 'sending or posting sexually suggestive images, including nude or semi-nude photographs, via mobiles or over the Internet.'

Yet when young people are asked 'What does sexting mean to you?' they are more likely to interpret sexting as 'writing and sharing explicit messages with people they know'.

Similarly, many parents think of sexting as flirty or sexual text messages rather than images.

This advice only covers the sharing of sexual imagery by young people. Creating and sharing sexual photos and videos of under-18s is illegal and therefore causes the greatest complexity for schools and other agencies when responding. It also presents a range of risks which need careful management.

On this basis this advice introduces the phrase 'youth produced sexual imagery' and uses this instead of 'sexting.' This is to ensure clarity about the issues this advice addresses.

'Youth produced sexual imagery' best describes the practice because:

- 'Youth produced' includes young people sharing images that they, or another young person, have created of themselves.
- 'Sexual' is clearer than 'indecent.' A judgement of whether something is 'decent' is both a value judgement and dependent on context.
- 'Imagery' covers both still photos and moving videos (and this is what is meant by reference to imagery throughout the document).

The types of incidents which this advice covers are:

- A person under the age of 18 creates and shares sexual imagery of themselves with a peer under the age of 18
- A person under the age of 18 shares sexual imagery created by another person under the age of 18 with a peer under the age of 18 or an adult
- A person under the age of 18 is in possession of sexual imagery created by another person under the age of 18

This advice does not cover:

- The sharing of sexual imagery of people under 18 by adults as this constitutes child sexual abuse and schools should always inform the police.
- Young people under the age of 18 sharing adult pornography or exchanging sexual texts which don't contain imagery.

## **Handling incidents**

### **Initial response**

All incidents involving youth produced sexual imagery should be responded to in line with the school's safeguarding and child protection policy.

When an incident involving youth produced sexual imagery comes to a school's attention:

- The incident should be referred to the DSL as soon as possible
- The DSL should hold an initial review meeting with appropriate school staff
- There should be subsequent interviews with the young people involved (if appropriate)
- Parents should be informed at an early stage and involved in the process unless there is good reason to believe that involving parents would put the young person at risk of harm
- At any point in the process if there is a concern a young person has been harmed or is at risk of harm a referral should be made to children's social care and/or the police immediately.

### **Disclosure**

Disclosures about youth produced sexual imagery can happen in a variety of ways. The young person affected may inform a class teacher, the DSL in school, or any member of the school staff. They may

report through an existing reporting structure, or a friend or parent may inform someone in school, or inform the police directly.

All members of staff (including non teaching) should be made aware of how to recognise and refer any disclosures of incidents involving youth produced sexual imagery. This should be covered within staff training and within the school's child protection policy.

Any direct disclosure by a young person should be taken very seriously. A young person who discloses they are the subject of sexual imagery is likely to be embarrassed and worried about the consequences. It is likely that disclosure in school is a last resort and they may have already tried to resolve the issue themselves.

### **Initial review meeting**

The initial review meeting should consider the initial evidence and aim to establish:

- Whether there is an immediate risk to a young person or young people
- If a referral should be made to the police and/or children's social care
- If it is necessary to view the imagery in order to safeguard the young person – in most cases, imagery should not be viewed
- What further information is required to decide on the best response
- Whether the imagery has been shared widely and via what services and/or platforms. This may be unknown.
- Whether immediate action should be taken to delete or remove images from devices or online services
- Any relevant facts about the young people involved which would influence risk assessment
- If there is a need to contact another school, college, setting or individual
- Whether to contact parents or carers of the pupils involved - in most cases parents should be involved

### **An immediate referral to police and/or children's social care should be made if at this initial stage:**

- The incident involves an adult
- There is reason to believe that a young person has been coerced, blackmailed or groomed, or if there are concerns about their capacity to consent (for example owing to special educational needs)
- What you know about the imagery suggests the content depicts sexual acts which are unusual for the young person's developmental stage, or are violent
- The imagery involves sexual acts and any pupil in the imagery is under 13.
- You have reason to believe a pupil or pupil is at immediate risk of harm owing to the sharing of the imagery, for example, the young person is presenting as suicidal or self-harming

If none of the above apply then a school may decide to respond to the incident without involving the police or children's social care (a school can choose to escalate the incident at any time if further information/concerns come to light).

The decision to respond to the incident without involving the police or children's social care would be made in cases when the DSL is confident that they have enough information to assess the risks to pupils involved and the risks can be managed within the school's pastoral support and disciplinary framework and if appropriate local network of support.

The decision should be made by the DSL with input from the Headteacher and input from other members of staff if appropriate. The decision should be recorded in line with school policy.

The decision should be in line with the school's child protection procedures and should be based on consideration of the best interests of the young people involved.

### **Assessing the risks**

The circumstances of incidents can vary widely. If at the initial review stage a decision has been made not to refer to police and/or children's social care, the DSL should conduct a further review (including an interview with the young people involved) to establish the facts and assess the risks.

When assessing the risks the following should be considered:

- Why was the imagery shared? Was the young person coerced or put under pressure to produce the imagery?
- Who has shared the imagery? Where has the imagery been shared? Was it shared and received with the knowledge of the pupil in the imagery?
- Are there any adults involved in the sharing of imagery?
- What is the impact on the pupils involved?
- Do the pupils involved have additional vulnerabilities?
- Does the young person understand consent?
- Has the young person taken part in this kind of activity before?

If a young person has shared imagery consensually, such as when in a romantic relationship, or as a joke, and there is no intended malice, it is usually appropriate for the school to manage the incident directly. In contrast any incidents with aggravating factors, for example, a young person sharing someone else's imagery without consent and with malicious intent, should generally be referred to police and/or children's social care.

**If you have any doubts about whether to involve other agencies, you should make a referral to the police.**

### **Informing parents (or carers)**

Parents (or carers) should be informed and involved in the process at an early stage unless informing the parent will put the young person at risk of harm. Any decision not to inform the parents would generally be made in conjunction with other services such as children's social care and/or the police, who would take the lead in deciding when the parents should be informed.

DSLs may work with the young people involved to decide on the best approach for informing parents. In some cases DSLs may work to support the young people to inform their parents themselves.

### **Reporting incidents to the police**

If it is necessary to refer to the police, contact should be made through existing arrangements. This may be through a safer schools officer, a PCSO (Police Community Security Officer), local neighbourhood police or by dialling 101.

Once a report is made to the police, the report has to be recorded and the police will conduct an investigation. This may include seizure of devices and interviews with the young people involved.

Things to be aware of when making reports to the police:

- Be aware that the police are not able to offer general advice on incidents. If the children involved are named or specifics are provided they are duty-bound to record and investigate all criminal activity reported.
- When making a report through the 101 service, be aware that the person answering the call is a call handler who deals with a wide variety of crimes and may not have specialist knowledge in this area. Ensure any crime reference numbers provided are recorded.
- Safer Schools Officers (where available) are able to offer direct support to schools on prevention and advice on management of incidents.

### **Securing and handing over devices to the police**

If any devices need to be seized and passed onto the police then the device(s) should be confiscated and the police should be called. The device should be turned off and placed under lock and key until the police are able to come and retrieve it.

### **Children's social care contact and referrals**

If the DSL is aware that children's social care are currently involved with a young person involved in an incident of youth produced sexual imagery then they should contact children's social care. They should also contact children's social care if they believe they may be involved, or have been involved with a young person in the past.

If as a result of the investigation the DSL believes there are wider issues which meet the threshold for children's social care involvement then they should make a referral in line with their child protection procedures.

DSLs should ensure that they are aware of, and familiar with, any relevant local policies, procedures and contact points/names which are available to support schools in responding to youth produced sexual imagery.

## **Searching devices, viewing and deleting imagery**

### **Viewing the imagery**

Adults should not view youth produced sexual imagery unless there is good and clear reason to do so. Wherever possible responses to incidents should be based on what DSLs have been told about the content of the imagery.

The decision to view imagery should be based on the professional judgement of the DSL and should always comply with the child protection policy and procedures of the school. Imagery should never be viewed if the act of viewing will cause significant distress or harm to the pupil.

If a decision is made to view imagery the DSL would need to be satisfied that viewing:

- is the only way to make a decision about whether to involve other agencies (i.e. it is not possible to establish the facts from the young people involved)
- is necessary to report the image to a website, app or suitable reporting agency to have it taken down, or to support the young person or parent in making a report
- is unavoidable because a pupil has presented an image directly to a staff member or the imagery has been found on a school device or network

If it is necessary to view the imagery then the DSL should:

- Never copy, print or share the imagery; this is illegal.
- Discuss the decision with the Headteacher.
- Ensure viewing is undertaken by the DSL or another member of the safeguarding team with delegated authority from the Headteacher.
- Ensure viewing takes place with another member of staff present in the room, ideally the Headteacher or a member of the senior leadership team. This staff member does not need to view the images.
- Wherever possible ensure viewing takes place on school premises, ideally in the Headteacher or a member of the senior leadership team's office.
- Ensure wherever possible that images are viewed by a staff member of the same sex as the young person in the imagery.
- Record the viewing of the imagery in the school's safeguarding records including who was present, why the image was viewed and any subsequent actions. Ensure this is signed and dated and meets the wider standards set out by Ofsted for recording safeguarding incidents.

If youth produced sexual imagery has been unavoidably viewed by a member of staff either following a disclosure from a young person or as a result of a member of staff undertaking their daily role (such as IT staff monitoring school systems) then DSLs should ensure that the staff member is provided with appropriate support. Viewing youth produced sexual imagery can be distressing for both young people and adults and appropriate emotional support may be required.

### **Deletion of images**

If the school has decided that other agencies do not need to be involved, then consideration should be given to deleting imagery from devices and online services to limit any further sharing of the imagery. However, just as in most circumstances it is not recommended that school staff view imagery, it is recommended that schools should not search through devices and delete imagery unless there is good and clear reason to do so.

It is recommended that in most cases young people are asked to delete imagery and to confirm that they have deleted the imagery. Young people should be given a deadline for deletion across all devices, online storage or social media sites.

Young people should be reminded that possession of youth produced sexual imagery is illegal. They should be informed that if they refuse or it is later discovered they did not delete the image they are committing a criminal offence and the police may become involved. All of these decisions need to be recorded, including times, dates and reasons for decisions made and logged in the safeguarding records. Parents and carers should also be informed unless this presents a further risk to the young person.

At this point schools may want to invoke their own disciplinary measures to discourage young people from sharing, creating or receiving images but this is at the discretion of the school and should be in line with its own behaviour policies.

### **Interviewing and talking to the young person/people involved**

Once a school has assessed a young person as not at immediate risk, it may be necessary to have a conversation with them and decide the best course of action. If possible, the DSL should carry out this conversation. However, if the young person feels more comfortable talking to a different teacher, this should be facilitated where possible.

When discussing the sharing of youth produced sexual imagery, it is important that the DSL:

- Recognises the pressures that young people can be under to take part in sharing such imagery and, if relevant, supports the young person's parents to understand the wider issues and motivations around this.
- Remains solution-focused and avoids questions such as 'why have you done this?' as this may prevent the young person from talking about what has happened.
- Reassures the young person that they are not alone and the school will do everything that they can to help and support them.
- Helps the young person to understand what has happened by discussing the wider pressures that they may face and the motivations of the person that sent on the imagery.
- Discusses issues of consent and trust within healthy relationships. Explain that it is not ok for someone to make them feel uncomfortable, to pressure them into doing things that they don't want to do, or to show them things that they are unhappy about. Let them know that they can speak to the DSL if this ever happens.

The purpose of the conversation is to:

- Identify, without looking, what the image contains and whether anyone else has been involved.
- Find out who has seen or shared the image and how further distribution can be prevented.

### **Recording incidents**

All incidents relating to youth produced sexual imagery need to be recorded in school. This includes incidents that have been referred to external agencies and those that have not.

Ofsted highlight that when inspecting schools in relation to safeguarding they look for the following:

- Are records up to date and complete?
- Do records demonstrate both effective identification and management of the risk of harm?
- Do records demonstrate sound decision-making, appropriate responses to concerns and evidence of relevant referrals made in a timely manner?
- Do they indicate that appropriate action is taken in response to concerns and allegations in a timely manner?
- Do they show evidence of tenacity in following up concerns with relevant agencies?
- Do they provide evidence of effective partnership working and sharing of information?
- Is there evidence of attendance at or contribution to inter-agency meetings and conferences?
- Is there clarity about the school's policy relating to the sharing of information internally, safe keeping of records, and transfer when a pupil leaves the school?

In cases that relate to youth produced sexual imagery it is important that schools reflect all of the areas above when they are recording incidents.

In addition, where schools do not refer incidents out to police or children's social care they should record their reason for doing so and ensure that this is signed off by the Headteacher.

### **Reporting youth produced sexual imagery online**

Young people may need help and support with the removal of content (imagery and videos) from devices and social media, especially if they are distressed. Most online service providers offer a reporting function for account holders and some offer a public reporting function to enable a third party to make a report on behalf of the young person.

### **Educating children**

- Children at Sleights will engage in annual CEOP training to understand the risks and dangers of staying safe online.
- In addition, through regular PHSCE sessions, children will engage in a range of activities to ensure they understand how to stay safe and how to report/get help if it is needed.

## Searching, screening and confiscation advice

*This section is written with guidance from the 2018 Department for Education publication.*

*"This advice is intended to explain schools' powers of screening and searching pupils so that school staff have the confidence to use them. In particular, it explains the use of the power to search pupils without consent. It also explains the powers schools have to seize and then confiscate items found during a search. It includes statutory guidance which schools must have regard to." (Department for Education, January 2018)*

### Searching

- School staff can search a pupil for any item if the pupil agrees. (Although the ability to give consent may be influenced by a child's age or other factors)
- Headteachers and staff authorised by them have a statutory power to search pupils or their possessions, without consent, where they have reasonable grounds for suspecting that the pupil may have a prohibited item. Prohibited items are:
  - knives or weapons
  - alcohol
  - illegal drugs
  - stolen items
  - tobacco and cigarette papers
  - fireworks
  - pornographic images
  - any article that the member of staff reasonably suspects has been, or is likely to be, used:
    - to commit an offence, or
    - to cause personal injury to, or damage to the property of, any person (including the pupil).

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

### Confiscation

School staff can seize any prohibited item found as a result of a search. They can also seize any item, they consider harmful or detrimental to school discipline.

### 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.

### Screening (not applicable at Sleights)

What the law allows:

- Schools can require pupils 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 pupils.
- Schools' statutory power to make rules on pupil behaviour and their duty as an employer to manage the safety of staff, pupils and visitors enables them to impose a requirement that pupils undergo screening.
- Any member of school staff can screen pupils.

Also note:

- If a pupil refuses to be screened, the school may refuse to have the pupil on the premises. Health and safety legislation requires a school to be managed in a way which does not expose

pupils or staff to risks to their health and safety and this would include making reasonable rules as a condition of admittance.

- If a pupil fails to comply, and the school does not let the pupil in, the school has not excluded the pupil and the pupil's absence should be treated as unauthorised. The pupil should comply with the rules and attend.
- This type of screening, without physical contact, is not subject to the same conditions as apply to the powers to search without consent.

## **Searching with consent**

Schools' common law powers to search:

- School staff can search pupils with their consent for any item.
- Schools are not required to have formal written consent from the pupil for this sort of search – it is enough for the teacher to ask the pupil to turn out his or her pockets or if the teacher can look in the pupil's bag or locker and for the pupil to agree.
- Schools should make clear in their school behaviour policy and in communications to parents and pupils what items are banned.
- If a member of staff suspects a pupil has a banned item in his/her possession, they can instruct the pupil to turn out his or her pockets or bag and if the pupil refuses, the teacher can apply an appropriate punishment as set out in the school's behaviour policy.
- A pupil refusing to 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, schools can apply an appropriate disciplinary penalty.

## **Searching without consent**

**What the law says can be searched for:**

- Knives or weapons, alcohol, illegal drugs and stolen items; and
- Tobacco and cigarette papers, fireworks and pornographic images; and
- Any article that the member of staff reasonably suspects has been, or is likely to be, used to commit an offence, or to cause personal injury, or damage to property; and
- Any item banned by the school rules which has been identified in the rules as an item which may be searched for.

**Can I search?**

- Yes, if you are a headteacher or a member of school staff and authorised by the headteacher.

**Under what circumstances?**

- You must be the same sex as the pupil being searched; and there must be a witness (also a staff member) and, if possible, they should be the same sex as the pupil being searched.
- There is a limited exception to this rule. You can carry out a search of a pupil of the opposite sex to you and / or without a witness present, but only where you reasonably believe that there is a risk that serious harm will be caused to a person if you do not conduct the search immediately and where it is not reasonably practicable to summon another member of staff.

**When can I search?**

- If you have reasonable grounds for suspecting that a pupil is in possession of a prohibited item.

**Also note:**

- The law also says what must be done with prohibited items which are seized following a search.
- The requirement that the searcher is the same sex as the pupil and that a witness is present will continue to apply in nearly all searches. Where it is practicable to summon a staff member of the same sex as the pupil and a witness then the teachers wishing to conduct a search must do so.

**Authorising members of staff**

- Department for Education guidance states: "Headteachers should decide who to authorise to use these powers. There is no requirement to provide authorisation in writing."

- Staff, other than security staff, can refuse to undertake a search. The law states that headteachers may not require anyone other than a member of the school security staff to undertake a search.
- Staff can be authorised to search for some items but not others; for example, a member of staff could be authorised to search for stolen property, but not for weapons or knives.
- At Sleights, staff are authorised on an individual case-by-case basis, considering the age, gender and factors involved at that time.

### **Training for school staff**

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

### **Establishing grounds for a search**

- Teachers can only undertake a search without consent if they have reasonable grounds for suspecting that a pupil may have in his or her possession a prohibited item. The teacher must decide in each particular case what constitutes reasonable grounds for suspicion. For example, they may have heard other pupils talking about the item or they might notice a pupil behaving in a way that causes them to suspect that the pupil is concealing a prohibited item.
- In the exceptional circumstances when it is necessary to conduct a search of a pupil of the opposite sex or in the absence of a witness, the member of staff conducting the search should bear in mind that a pupil's expectation of privacy increases, as they get older.
- The powers allow school staff to search regardless of whether the pupil is found after the search to have that item. This includes circumstances where staff suspect a pupil of having items such as illegal drugs or stolen property which are later found not to be illegal or stolen.

### **Searches for items banned by the school rules**

- An item banned by the school rules may only be searched for under these powers if it has been identified in the school rules as an item that can be searched for.
- The school rules must be determined and publicised by the headteacher in accordance with section 89 of the Education and Inspections Act 2006 in maintained schools.
- Under section 89 and the School Behaviour (Determination and Publicising of Measures in Academies) Regulations 2012 the headteacher must publicise the school behaviour policy, in writing, to staff, parents and pupils at least once a year.

### **Location of a search**

- Searches without consent can only be carried out on the school premises or, if elsewhere, where the member of staff has lawful control or charge of the pupil, for example on school trips in England or in training settings.

### **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.

### **Use of force**

- Members of staff can use such force as is reasonable given the circumstances when conducting a search for knives or weapons, alcohol, illegal drugs, stolen items, tobacco and cigarette papers, fireworks, pornographic images or articles that have been or could be used to commit an offence or cause harm. Such force cannot be used to search for items banned under the school rules.
- Please see use of force policy in conjunction with this.

### **After the search**

The power to seize and confiscate items – general

What the law allows:

- Schools' general power to discipline, as circumscribed by Section 91 of the Education and Inspections Act 2006, enables a member of staff to confiscate, retain or dispose of a pupil's property as a disciplinary penalty, where reasonable to do so.

### **Also note:**

- The member of staff can use their discretion to confiscate, retain and/or destroy any item found as a result of a 'with consent' search so long as it is reasonable in the circumstances. Where any article is reasonably suspected to be an offensive weapon, it must be passed to the police.
- Staff have a defence to any complaint or other action brought against them. The law protects members of staff from liability in any proceedings brought against them for any loss of, or damage to, any item they have confiscated, provided they acted lawfully.

### **Items found as a result of a 'without consent' search**

What the law says:

- A person carrying out a search can seize anything they have reasonable grounds for suspecting is a prohibited item or is evidence in relation to an offence.
- Where a person conducting a search finds alcohol, they may retain or dispose of it. This means that schools can dispose of alcohol as they think appropriate but this should not include returning it to the pupil.
- Where they find controlled drugs, these must be delivered to the police as soon as possible but may be disposed of if the person thinks there is a good reason to do so.
- Where they find other substances which are not believed to be controlled drugs these can be confiscated where a teacher believes them to be harmful or detrimental to good order and discipline. This would include, for example, so called 'legal highs'. Where staff suspect a substance may be controlled they should treat them as controlled drugs as outlined above.
- Where they find stolen items, these must be delivered to the police as soon as reasonably practicable – but may be returned to the owner (or may be retained or disposed of if returning them to their owner is not practicable) if the person thinks that there is a good reason to do so.
- Where a member of staff finds tobacco or cigarette papers they may retain or dispose of them. As with alcohol, this means that schools can dispose of tobacco or cigarette papers as they think appropriate but this should not include returning them to the pupil.
- Fireworks found as a result of a search may be retained or disposed of but should not be returned to the pupil.
- If a member of staff finds a pornographic image, they may dispose of the image unless they have reasonable grounds to suspect that its possession constitutes a specified offence (i.e. it is extreme or child pornography) in which case it must be delivered to the police as soon as reasonably practicable.
- Where an article that has been (or is likely to be) used to commit an offence or to cause personal injury or damage to property is found it may be delivered to the police or returned to the owner. It may also be retained or disposed of.
- Where a member of staff finds an item which is banned under the school rules they should take into account all relevant circumstances and use their professional judgement to decide whether to return it to its owner, retain it or dispose of it.
- Any weapons or items which are evidence of an offence must be passed to the police as soon as possible.

### **Statutory guidance on the disposal of controlled drugs and stolen items**

- It is up to the teachers and staff authorised by them to decide whether there is a good reason not to deliver stolen items or controlled drugs to the police. In determining what is a "good reason" for not delivering controlled drugs or stolen items to the police the member of staff must have regard to the following 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, school 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 that is prohibited by the school rules or that they reasonably suspects has been, or is likely to be, used to commit an offence or cause personal injury or damage to property, they may examine any data or files on the device where there is a good reason to do so. They may also delete data or files if they think there is a good reason to do so, unless they are going to give the device to the police. This power applies to all schools and there is no need to have parental consent to search through a young person's mobile phone if it has been seized in a lawful 'without consent' search and is prohibited by the school rules or is reasonably suspected of being, or being likely to be, used to commit an offence or cause personal injury or damage to property.
- The member of staff must have regard to the following guidance issued by the Secretary of State when determining what is a "good reason" for examining or erasing the contents of an electronic device:
- In determining a 'good reason' to examine or erase the data or files the staff member should reasonably suspect that the data or file on the device in question has been, or could be, used to cause harm, to disrupt teaching or break the school rules.
- If an electronic device that is prohibited by the school rules has been seized and the member of staff has reasonable grounds to suspect that it contains evidence in relation to an offence, they must give the device to the police as soon as it is reasonably practicable. Material on the device that is suspected to be evidence relevant to an offence, or that is a pornographic image of a child or an extreme pornographic image, should not be deleted prior to giving the device to the police.
- If a staff member does not find any material that they suspect is evidence in relation to an offence, and decides not to give the device to the police, they can decide whether it is appropriate to delete any files or data from the device or to retain the device as evidence of a breach of school discipline.
- All school staff should be aware that behaviours linked to sexting put a child in danger.

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 school.

### **Telling parents and dealing with complaints**

- Schools are not required to inform parents before a search takes place or to seek their consent to search their child.
- There is no legal requirement to make or keep a record of a search.
- Schools should inform the individual pupil's parents or guardians where alcohol, illegal drugs or potentially harmful substances are found, though there is no legal requirement to do so.
- Complaints about screening or searching should be dealt with through the normal school complaints procedure.