

**Policy Document for:** Searching, screening & confiscation

**Approved by Trust Board:**

**Due for Review:** February 2024

Based on [Searching, Screening and Confiscation \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

Additions/amendments in this version


## Introduction

Ensuring school staff and pupils feel safe and secure is vital to establishing calm and supportive environments conducive to learning. Using searching, screening and confiscation powers appropriately is an important way to ensure pupil and staff welfare is protected and helps our schools establish an environment where everyone is safe.

This policy is intended to explain schools' screening, searching and confiscation powers so that our Heads of School/Head teacher have the confidence to use them if necessary.

Schools and their staff are an important part of the wider safeguarding system for children. This system is described in the statutory guidance Working Together to Safeguard Children. Keeping Children Safe in Education makes clear that all school staff have a responsibility to provide a safe environment in which pupils can learn.

Before screening or conducting a search of a pupil, it is vital that the Heads consider their obligations under the European Convention on Human Rights. Under Article 8, pupils have a right to respect for their private life. In the context of these rights and obligations, 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 policy will assist our schools in deciding how to exercise their searching powers in a lawful way.

This policy links to the following legislation:

- Coroners and Justice Act 2009
- Criminal Justice and Immigration Act 2008
- Health and Safety at Work etc. Act 1974
- The Education Act 1996
- The Education and Inspections Act 2006
- The Education (Independent School Standards) Regulations 2014

- The Schools (Specification and Disposal of Articles) Regulations 2012

### Banned items – or those which are discouraged

Items which might be considered for confiscation include those items listed in the pupil behaviour policy and those mentioned below, among others:

- Any item posing as a distraction or threat to good order for learning in class: e.g. mobile phones, tablets, smart watches and other electronic devices. Mobile phones must be handed in to the teacher or the office each day. Smart watches which are a distraction will be removed and kept safe by the teacher until the end of the school day.
- Any item posing a threat to others: e.g. a laser pen being used to distract and possibly harm other pupils or staff. This will be kept safe by the teacher until the end of the school day and returned to the parent/carers
- Any item which is against school uniform rules (mainstream schools only): e.g. a baseball hat kept on in the classroom. Children will be asked to remove any such items and place them with their coat or they will be kept safely in the classroom until the end of the school day when the teacher will advise the parents/carers why such an item is not part of school uniform.
- Toys or similar which are being played with during class, or during break times. These are generally not encouraged (unless for a specific purpose such as a Teddy Bear picnic) since they can be lost, damaged or swapped without parental permission. The teacher will request that such items are put on their desk for safe keeping until the end of the school day

### Searching

Searching can play a critical role in ensuring that schools are safe environments for all pupils and staff. It is a vital measure to safeguard and promote staff and pupil welfare, and to maintain high standards of behaviour through which pupils can learn and thrive.

Headteachers and staff they authorise have a statutory power to search a pupil or their possessions where they have reasonable grounds to suspect that the pupil may have a prohibited item listed in paragraph 31 or any other item that the school rules identify as an item which may be searched for.

### School rules

These identify the following items can be searched for:

- E-cigarettes/vapes
- Lighters
- Matches
- Racist/homophobic materials
- Any item which could be used to cause personal injury or damage to property
- Any item which is counter to the ethos of the school: e.g. material which might cause tension between one community and another.

### Prohibited items

These items are prohibited:

- knives and weapons;
- alcohol;
- illegal drugs;
- stolen items;
- any article that the member of staff reasonably suspects has been, or is likely to be used:
  - to commit an offence, or
  - to cause personal injury to, or damage to property of; any person (including the pupil).
- an article specified in regulations:

- tobacco and cigarette papers;
- fireworks;
- pornographic images.

Under common law, school staff have the power to search a pupil for any item if the pupil agrees. The member of staff should ensure the pupil understands the reason for the search and how it will be conducted so that their agreement is informed.

Being in possession of a prohibited item – especially knives, weapons, illegal drugs or stolen items – may mean that the pupil is involved, or at risk of being involved, in anti-social or criminal behaviour including gang involvement, and in some cases may be involved in child criminal exploitation. A search may play a vital role in identifying pupils who may benefit from Early Help or a referral to the local authority children’s social care services.

When exercising their powers, our schools must consider the age and needs of pupils being searched or screened. This includes the individual needs or learning difficulties of pupils with Special Educational Needs (SEN) and making reasonable adjustments that may be required where a pupil has a disability.

School staff may wish to consider using CCTV footage to decide whether to conduct a search for an item.

### **The role of the Head of School/headteacher, the designated safeguarding lead and authorised members of staff**

Only the Head of School/headteacher (referred to the Head in this policy), or a member of staff authorised by the Head, can carry out a search. The Head can authorise individual members of staff to search for specific items, or all items set out in the school's behaviour policy. For example, a member of staff may be authorised to search for stolen property and alcohol but not for weapons or drugs.

The Head should oversee the school’s practice of searching to ensure that a culture of safe, proportionate and appropriate searching is maintained, which safeguards the welfare of all pupils and staff with support from the DSL or DDSL

The Head should ensure that a sufficient number of staff are appropriately trained in how to lawfully and safely search a pupil who is not co-operating, so that these trained staff can support and advise other members of staff if this situation arises. However, it is vital that all staff understand their rights and the rights of the pupil who is being searched.

The DSL/DDSL should be informed of any searching incidents where the member of staff had reasonable grounds to suspect a pupil was in possession of a prohibited item as listed in this policy. The staff member should also involve the DSL/DDSL without delay if they believe that a search has revealed a safeguarding risk.

If the DSL/DDSL finds evidence that any child is at risk of harm, they should make a referral to children’s social care services immediately in line with the **Child Protection and Safeguarding** policy. The DSL/DDSL should then consider the circumstances of the pupil who has been searched to assess the incident against potential wider safeguarding concerns.

The DSL/DDSL will log the search on CPOMS/My Concern.

## Before searching

A search can be considered if the member of staff has reasonable grounds for suspecting that the pupil is in possession of a prohibited item or any item identified in the school rules for which a search can be made, or if the pupil has agreed.

The authorised member of staff should make an assessment of how urgent the need for a search is and should consider the risk to other pupils and staff.

Before any search takes place, the member of staff conducting the search should explain to the pupil why they are being searched, how and where the search is going to take place and give them the opportunity to ask any questions.

The authorised member of staff should always seek the co-operation of the pupil before conducting a search. If the pupil is not willing to co-operate with the search, the member of staff should consider why this is.

Reasons might include that they:

- are in possession of a prohibited item;
- do not understand the instruction;
- are unaware of what a search may involve; or
- have had a previous distressing experience of being searched.

If a pupil continues to refuse to co-operate, the member of staff will sanction the pupil in line with the school's behaviour policy, ensuring that they are responding to misbehaviour consistently and fairly.

If the member of staff still considers a search to be necessary, but is not required urgently, they should seek the advice of the Head and/or DSL/DDSL. During this time the pupil should be supervised and kept away from other pupils. If the pupil still refuses to co-operate, the member of staff should assess whether it is appropriate to use reasonable force to conduct the search. A member of staff can use such force as is reasonable to search for any prohibited items identified in this policy, but not those items which are discouraged or listed under school rules.

See the Positive Behaviour Principles handbook which sets out using reasonable force. The decision to use reasonable force should be made on a case-by-case basis. The member of staff should consider whether conducting the search will prevent the pupil harming themselves or others, damaging property or from causing disorder. It should be noted that the use of reasonable force will differ depending on whether the member of staff is searching possessions or the pupil themselves.

## During a search

### *Where*

An appropriate location for the search should be found. Where possible, this should be away from other pupils. The search must only take place on the school premises or where the member of staff has lawful control or charge of the pupil, for example on a school trip

### *Who*

The law states the member of staff conducting the search must be of the same sex as the pupil being searched. There must be another member of staff present as a witness to the search.

There is a limited exception to this rule. This is that a member of staff can search a pupil of the opposite sex and/or without a witness present only:

- if the member of staff carrying out the search reasonably believes there is risk that serious harm will be caused to a person if the search is not carried out as a matter of urgency; and

- in the time available, it is not reasonably practicable for the search to be carried out by a member of staff who is same sex as the pupil or it is not reasonably practicable for the search to be carried out in the presence of another member of staff

When a member of staff conducts a search without a witness they should immediately report this to another member of staff, and ensure a record of the search is kept on CPOMS/My Concern.

### **The extent of the search**

A member of staff may search a pupil's outer clothing, pockets, possessions, desks or lockers. The person conducting the search must not require the pupil to remove any clothing other than outer clothing. 'Outer clothing' means any item of clothing that is not worn wholly next to the skin or immediately over a garment that is being worn as underwear, as well as hats, shoes, boots or scarves. 'Possessions' means any goods over which the pupil has or appears to have control - this includes desks, lockers and bags.

A member of staff is able to search lockers and desks or other personal spaces at the school for any item provided the pupil agrees. If the pupil withdraws their agreement to search, a search may be conducted both for the prohibited items listed in this policy and any items identified in the school rules for which a search can be made which is listed in this policy.

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.

The member of staff's power to search outlined above does not enable them to conduct a strip search.

### **Strip searching**

A strip search is a search involving the removal of more than outer clothing. Strip searches on school premises can only be carried out by police officers under the Police and Criminal Evidence Act 1984 (PACE) Code A and in accordance with the Police and Criminal Evidence Act 1984 (PACE) Code C.

While the decision to undertake the strip search itself and its conduct are police matters, school staff retain a duty of care to the pupil(s) involved and should advocate for pupil wellbeing at all times.

Before calling police into school, the Head & DSL team should assess and balance the risk of a potential strip search on the pupil's mental and physical wellbeing and the risk of not recovering the suspected item. Staff should consider whether introducing the potential for a strip search through police involvement is absolutely necessary, and should always ensure that other appropriate, less invasive approaches have been exhausted. If this decision is made, this must be recorded on CPOMS/My Concern.

Once the police are on school premises, the decision on whether to conduct a strip search lies solely with them, and the role of the school is to advocate for the safety and wellbeing of the pupil(s) involved.

Unless there is an immediate risk of harm and where reasonably possible, staff should inform a parent of the pupil suspected of concealing an item in advance of the search, even if the parent is not acting as the appropriate adult. Parents should always be informed by a staff member once a strip search has taken place. The Heads must keep records of strip searches that have been conducted on school premises and monitor them for any trends that emerge.

### *The process the police must follow during a strip search*

Except in cases of urgency where there is risk of serious harm to the pupil or others, whenever a strip search involves exposure of intimate body parts there must be at least two people present other than the pupil, one of which must be the appropriate adult.

If the pupil's parent would like to be the appropriate adult, the school should facilitate this where possible. Police officers carrying out the search must be of the same sex as the pupil being searched. An appropriate adult not of the same sex as the pupil being searched may be present if specifically requested by the pupil. Otherwise, no-one of a different sex to the pupil being searched is permitted to be present, and the search must not be carried out in a location where the pupil could be seen by anyone else.

Except in urgent cases as above, a search of a pupil may take place without an appropriate adult only if the pupil explicitly states in the presence of an appropriate adult that they do not want an appropriate adult to be present during the search and the appropriate adult agrees. A record should be made of the pupil's decision and signed by the appropriate adult. The presence of more than two people, other than an appropriate adult, shall be permitted only in the most exceptional circumstances.

Strip searching can be highly distressing for the pupil involved, as well as for staff and other pupils affected, especially if undertaken on school premises. PACE Code C states that a strip search may take place only if it is considered necessary to remove an item related to a criminal offence, and the officer reasonably considers the pupil might have concealed such an item. Strip searches should not be routinely carried out if there is no reason to consider that such items are concealed.

### *After-care following a strip search*

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

### **After a search**

Whether or not any items have been found as a result of any search, DSLs must consider whether the reasons for the search, the search itself, or the outcome of the search give cause to suspect that the pupil is suffering, or is likely to suffer harm, and/or whether any specific support is needed by following the **Child Protection and safeguarding** policy. The DSL team will consider if pastoral support, an Early Help intervention or a referral to children's social care is appropriate. If any prohibited items are found during the search, the member of staff should follow the guidance set out below.

If a pupil is found to be in possession of a prohibited item listed in this policy then the DSL conducting the search will sanction the pupil in line with the school's behaviour policy to ensure consistency of approach and contact the parent.

### **Recording searches**

Any search by a member of staff for a prohibited item or those banned under school rules listed in this policy and all searches conducted by police officers should be recorded on CPOMS/My Concern,

including whether or not an item is found. This will allow the DSL team to consider what safeguarding concerns may need to be addressed.

What should be recorded:

- the date, time and location of the search
- who conducted the search and any other adults or pupils present;
- what was being searched for and the reason for searching;
- what items, if any, were found; and
- what follow-up action was taken as a consequence of the search.

## **Informing parents**

Staff will reinforce the whole-school approach by building and maintaining positive relationships with parents.

- Parents should always be informed of any search for a prohibited item or item banned by school rules listed in this policy that has taken place, and the outcome of the search as soon as is practicable.
- A member of staff should inform the parents of what, if anything, has been confiscated and the resulting action the school has taken, including any sanctions applied.
- Any complaints about searching, screening or confiscation should be dealt with through the normal school complaints procedure.

## **Screening**

None of the Trust schools undertake screening such as a walk through metal detector.

## **Confiscation**

### **Items found as a result of a search**

An authorised staff member carrying out a search can confiscate any item that they have reasonable grounds for suspecting:

- That it poses a risk to staff or pupils;
- is prohibited;
- is identified in the school rules for which a search can be made;
- is evidence in relation to an offence.

### **Prohibited or illegal items**

Controlled drugs must be delivered to the police as soon as possible unless there is a good reason not to do so. When the DSLs 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. If the DSL is in doubt about the safe disposal of controlled drugs, they should deliver them to the police.

Other substances which are not believed to be controlled should also be delivered to the police, or disposed of as above, if the DSL believes they could be harmful.

Where a person conducting a search finds alcohol, tobacco, cigarette papers or fireworks, they may retain them and give back to the parent at the end of the school day but should not return them 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

an indecent image of a child) in which case it must be delivered to the police as soon as reasonably practicable.

Members of staff should never intentionally view any indecent image of a child (also sometimes known as nude or semi-nude images). Staff must never copy, print, share, store or save such images. See below for searching electronic devices, and the **safe use of digital devices and social media** policy.

Where a member of staff finds stolen items, these must be delivered to the police as soon as reasonably practicable. However, if there is good reason to do so, the member of staff may also return the item to the owner, or retain or dispose of it if returning them to their owner is not practicable. In determining whether there is a good reason to return the stolen item to its owner or retain or dispose of the item, the member of staff must have regard to the following guidance issued by the Secretary of State:

- the value of the item - it would not be reasonable or desirable to involve the police in dealing with low value items such as pencil cases, though school staff may judge it appropriate to contact the police if the items are valuable;
- whether the item is banned by the school;
- whether retaining or returning the item to the owner may place any person at risk of harm; and
- whether the item can be disposed of safely

Any weapons or items which are evidence of a suspected offence must be passed to the police as soon as possible.

Items that have been (or are likely to be) used to commit an offence or to cause personal injury or damage to property should be delivered to the police as soon as reasonably practicable, returned to the owner, retained or disposed of. In deciding what to do with such an item, the member of staff must have regard to the guidance issued by the Secretary of State:

- whether it is safe to dispose of the item; and
- whether and when it is safe to return the item.

Members of staff should retain any other items banned under the school rules and return these to the parents at the end of the school day.

## Electronic devices

Electronic devices, including mobile phones, can contain files or data which relate to an offence, or which may cause harm to another person. This includes, but is not limited to, indecent images of children, pornography, abusive messages, images or videos, or evidence relating to suspected criminal behaviour.

As with all prohibited items, staff should first consider the appropriate safeguarding response if they find images, data or files on an electronic device that they reasonably suspect are likely to put a person at risk.

Staff may examine any data or files on an electronic device they have confiscated as a result of a search if there is good reason to do so.

If the member of staff conducting the search suspects they may find an indecent image of a child (sometimes known as nude or semi-nude images), the member of staff should never intentionally view the image, and must never copy, print, share, store or save such images. When an incident might involve an indecent image of a child and/or video, the DSL should confiscate the device, avoid looking at the device and follow the school Child Protection and safeguarding policy and [Sharing nudes and](#)

If the DSL finds any image, data or file that they suspect might constitute a specified offence, then they must be delivered to the police as soon as is reasonably practicable. In exceptional circumstances members of staff may dispose of the image or data if there is a *good reason to do so*. In determining a 'good reason' to examine or erase the data or files, the member of staff must have regard to the following guidance issued by the Secretary of State:

In determining whether there is a '*good reason*' to examine the data or files, the DSL should reasonably suspect that the data or file on the device has been, or could be used, to cause harm, undermine the safe environment of the school and disrupt teaching, or be used to commit an offence.

In determining whether there is a '*good reason*' to erase any data or files from the device, the DSL should consider whether the material found may constitute evidence relating to a suspected offence. In those instances, the data or files should not be deleted, and the device must be handed to the police as soon as it is reasonably practicable. If the data or files are not suspected to be evidence in relation to an offence, a DSL may delete the data or files if the continued existence of the data or file is likely to continue to cause harm to any person and the pupil and/or the parent refuses to delete the data or files themselves.

### **Confiscation as a disciplinary penalty**

Schools' general power to discipline enables a member of staff to confiscate, retain or dispose of a pupil's property as a disciplinary penalty, where reasonable to do so. 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.