

# Searching, Screening and Confiscation Policy

## Whole School & EYFS

### Regulation ISSR: Part

**Reviewed and updated by: Mrs C Wood**

**Approval: Full Governor Board**

**Last Review: Autumn 2024**

**Next Review: Autumn 2025**



This policy will be amended before the review date if necessary.

This policy is taken from the [Searching, Screening and Confiscation advice published by the Department for Education \(July 2022\)](#) and in conjunction with [Working together to safeguard children](#) and [Keeping children safe in education](#).

### Aims:

- To ensure that staff are given the ability to search for forbidden items according to a set series of guidelines.
- To be fair and consistent across the School.
- To differentiate between searching with or without consent and the powers of the School in relation to both.

### Schools' obligations under the European Convention on Human Rights

- 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.

### Summary:

- School staff can search a pupil for any item if the pupil agrees. There is no need for written consent and parental consent is not required.
- The Head and staff authorised by her 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 or vaping equipment
  - 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)
  - any item which has been identified in the 'school rules' (Behaviour Policy) as an item which may be searched for.

## **Confiscation and Disposal of Items**

Staff can seize, retain and dispose of any prohibited item found, as well as items they consider harmful or detrimental to school discipline. Staff may also confiscate an item as a sanction, if stated in their Behaviour Policy.

### **Searching with consent**

Schools' common law powers to search:

- School staff can search pupils with their consent for any item. 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 (see Appendix 1).

#### **Also note:**

- 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.
- If a member of staff suspects a pupil has a banned item in their possession, they can instruct the pupil to turn out their 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.

### **Training for school staff**

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

### **Searching - What the law says:**

#### **What can be searched for?**

- Knives or weapons, alcohol, illegal drugs and stolen items; and
- Tobacco and cigarette papers, vaping material, 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 to, 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.
- You must be the same sex as the pupil being searched; and there must be a witness (also a staff member) and, if at all 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 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 a member of staff conducts a search without a witness, they should immediately report this to another member of staff (preferably a member of the SLT) to ensure a record of the search is kept (complete Appendix 1).

#### **When can I search?**

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

## **Authorising members of staff**

- The Head 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 Heads 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.
- The Head can require a member of the school's security staff to undertake a search.
- If a security guard, who is not a member of the school staff, searches a pupil, the person witnessing the search should ideally be a permanent member of the school staff, as they are more likely to know the pupil.

## **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 be suspicious.
- 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. The authorised member of staff should also consider how they approach this conversation when addressing pupils with learning differences. 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.
- 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.
- School staff can view CCTV footage in order to make a decision as to whether to conduct a search for an item.

## **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 or in training settings.

## **During the search**

### **Extent of the search – clothes, pockets, possessions, desks or lockers**

- 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.
- This power does not enable the staff to conduct a strip search.

### **Lockers and desks**

- Under common law powers, schools are able to search lockers and desks for any item provided the pupil agrees. Schools can also make it a condition of having a locker or desk that the pupil consents to have these searched for any item whether or not the pupil is present.
- If a pupil does not consent to a search (or withdraws consent having signed a consent form) then it is possible to conduct a search without consent but only for the “prohibited items” listed above.

### **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.

### **After the search - What the law allows:**

- Whether or not any items have been found as a result of any search, schools should 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. Where this may be the case, school staff should follow the school’s child protection policy and speak to the Designated Safeguarding Lead (or deputy) as set out in Part 1 of Keeping children safe in education. They 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 on confiscation.
- If a pupil is found to be in possession of a prohibited item listed above, then the staff member should alert the DSL (or deputy) and the pupil should be sanctioned in line with the school’s behaviour policy to ensure consistency of approach.
- The School 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 because of a ‘with consent’ search so long as it is reasonable in the circumstances. Where any article is thought to be a 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.

### **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. We would follow the details in the [Searching, Screening and Confiscation advice published by the Department for Education \(July 2022\)](#) and the most up to date guidance following recent cases that have come to light due to police conduct in such situations.

## 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 or vaping material** 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 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. Images found on a mobile phone or other electronic device can be deleted unless it is necessary to pass them to the police.
- Where an **article that has been (or could be) used to commit an offence or to cause personal injury or damage to property** is found it may be delivered to the police or 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 teachers 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 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 if they think there is a good reason to do so. Following an examination, if the person has decided to return the device to the owner, or to retain or dispose of it, they may erase any data or files, if they think there is a good reason to do so. We do not need 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 that they reasonably suspects has been, or is 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 must 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 inappropriate material is found on the device it is up to the teacher to decide whether they should delete that material, retain it as evidence (of a criminal offence or a breach of school discipline) or whether the material is of such seriousness that it requires the involvement of the police. The Police must receive the device as soon as reasonably practicable. We recommend that this decision is made by the Head, Head of Prep or DSL.
- All school staff should be aware that behaviours linked to sharing of nudes put a child in danger. This is reflected in our Child Protection and Safeguarding Policy.
- 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.
- The School will 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.

**Appendix 1.**  
**Searching, screening and confiscation report**



Date, time and location of the search	
Name of pupil involved	I confirm that the member of staff has explained why they want to search my outer clothing, pockets, possessions, desk or locker. I confirm that I give my permission.
Name of staff completing the search	
Name(s) of other staff who witnessed the search	
What was being searched for	
Description of reason for search	
What items, if any were found	
Follow-up action was taken as a consequence of the search	
Parental contact made by DSL or Head	
Actions taken after search to support pupil	
Added to CPOMS	
Logged on search spreadsheet and review of incident completed with relevant staff	

Signed:

Date: