

# Searching, Screening and Confiscation Policy

## Lincoln Minster School

### 1. 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 schools establish an environment where everyone is safe. This policy is intended to explain the schools' screening, searching and confiscation powers so that pupils, staff and parents are clear as to how and when they may be used.

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 schools 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 shown to be necessary and proportionate.

### 2. 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.

The Headteacher 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<sup>1</sup> listed below or any other item that the school rules<sup>2</sup> identify as an item which may be searched for.

Example list of prohibited items:

- knives and weapons;
- alcohol;
- illegal drugs;
- stolen items;
- Tobacco, vapes or any other smoking paraphernalia;
- any article that the member of staff reasonably suspects has been, or is likely to be used:

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<sup>1</sup> A 'prohibited item' is defined in subsection (3) of Section 550ZA of the Education Act 1996

<sup>2</sup> For independent schools and academies, see Schedule 1, Paragraph 9 of the Education (Independent School Standards) (England) Regulations 2014. For more information on what should be included in a school's behaviour policy, see the Behaviour in Schools guidance.

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<sup>3</sup>:

The member of staff should ensure the pupil understands the reason for the search and how it will be conducted.

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 antisocial 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. See Keeping children safe in education and Working together to safeguard children

The School's Rewards, Rewards and Sanctions Policy outlines any items for which a search can be made in addition to the prohibited items above. This may include other items which the Headteacher decides are detrimental to maintaining high standards of behaviour and a safe environment.

When exercising its powers, the School will 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.

### **3. The role of the Headteacher, the Designated Safeguarding Lead and members of staff**

Only the Headteacher, or a member of staff authorised by the Headteacher, can carry out a search. The Headteacher can authorise individual members of staff to search for specific items, or all items set out in the School's Rules, Rewards and Sanctions Policy.

The Headteacher can require a member of security staff to undertake a search. If a security guard, who is not a member of the school staff, searches a pupil, this guidance should be followed and the person witnessing the search should be a permanent member of the school staff. The Headteacher may not require any other member of staff to undertake a search if they refuse<sup>4</sup>.

The Headteacher 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 Designated Safeguarding Lead.

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.

The Designated Safeguarding Lead (or Deputy DSL) 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 above. The staff member should also involve the Designated Safeguarding Lead (or Deputy DSL) without delay if they believe that a search has revealed a safeguarding risk.

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<sup>3</sup> 3 The Schools (Specification and Disposal of Articles) Regulations 2012.

<sup>4</sup> 6 Section 550ZB of the Education Act 1996.

If the Designated Safeguarding Lead (or Deputy) finds evidence that any child is at risk of harm, they should make a referral to children's social care services immediately (as set out in part 1 of Keeping children safe in education). The Designated Safeguarding Lead (or Deputy) should then consider the circumstances of the pupil who has been searched to assess the incident against potential wider safeguarding concerns. See Section 8 for guidance on recording searches.

#### **4. 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. See sections 2+3 above on powers to search.

The member of staff authorised by the Head 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 member of staff authorised by the Head 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 may 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 headteacher, designated safeguarding lead (or deputy) or pastoral member of staff who may have more information about the pupil. 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 paragraph 3, but not to search for items which are identified only in the school rules<sup>5</sup>. 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.<sup>6</sup>

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. See the Rules, Rewards and Sanctions Policy.

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<sup>5</sup> Section 550ZB(5) of the Education Act 1996

<sup>6</sup> 8 Section 93(1) of the Education and Inspections Act 2006

## 5. 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.<sup>7</sup>

### Who:

The law states the member of staff conducting the search must be of the same sex as the pupil (as stated on their birth certificate) 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 the 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.<sup>8</sup>

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. See Section 8 on recording searches.

## 6. 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 wholly next to the skin or immediately over a garment that is being worn as underwear. This should include removal of hats, shoes, boots or scarves<sup>9</sup>

'Possessions' means any goods over which the pupil has or appears to have control - this includes desks, lockers and bags.

A member of staff can 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.

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<sup>7</sup> The powers to search outlined in this guidance only apply in England. When on a trip outside England, the law of that country should be followed.

<sup>8</sup> Section 550ZB of the Education Act 1996.

<sup>9</sup> Staff members should be sensitive to whether such outer clothing is worn for religious reasons when conducting a search

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. See paragraph 5 on who can conduct a search.

The member of staff may use a metal detector to assist with the search.

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

## **7. After a search**

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 in section 14 on confiscation.

If a pupil is found to be in possession of a prohibited item listed in paragraph 2.3, then the staff member should alert the designated safeguarding lead (or deputy) and the pupil should be sanctioned in line with the school's behaviour policy to ensure consistency of approach.

Confiscated items must be sorted in a named envelope where possible and kept behind Reception or in the Deputy Head Pastoral's office.

## **8. Recording searches**

Any search by a member of staff for a **prohibited item** listed in paragraph 2 and all searches conducted by police officers should be recorded on CPOMS, including whether or not an item is found. This will allow the designated safeguarding lead (or deputy) to identify possible risks and initiate a safeguarding response if required. Headteachers may also decide that all searches for items banned by the school rules should be recorded. Staff members should follow the school policy in these cases.

The CPOMS entry should include:

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

## 9. Informing Parents

Schools should 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 listed in paragraph 3 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.

Schools should consider that in some circumstances it might also be necessary to inform parents of a search for an item banned by the school policy.

Any complaints about searching, screening or confiscation should be dealt with through the normal school complaints procedure.

## 10. Confiscation

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

- poses a risk to staff or pupils;
- is prohibited, or identified in the school rules for which a search can be made (see section 2); or
- is evidence in relation to an offence.

## 11. 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<sup>10</sup>. In these cases, the member of staff must safely dispose of the drugs. In determining whether there is a good reason to dispose of controlled drugs, SLT must have regard to the following guidance below issued by the Secretary of State.

SLT should take into account all relevant circumstances and use their professional judgement to determine whether they can safely dispose of the controlled drug. When 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 SLT 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 member of staff believes they could be harmful.

Where a person conducting a search finds **alcohol, tobacco, cigarette papers or fireworks**, they may retain or dispose of them as they think appropriate but should not return them to the pupil.

If a member of staff finds a **pornographic image**, they must report it immediately to the DSL. 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.

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<sup>10</sup> Legally, schools do not have to give the name of the pupil from whom drugs have been taken to the police. Schools should consider this on a case-by-case basis. Please see the DfE and ACPO drug advice for schools for more information on the relevant powers and duties in relation to powers to search for and confiscate drugs, liaison with the police and with parents.

See section 16 for further advice on searching electronic devices.

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 in paragraph 15 below.

- 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.

The member of staff should take into account all relevant circumstances and use their professional judgement to determine whether the item should be delivered to the police, retained, returned to the owner or disposed of. In taking into account all relevant circumstances the member of staff should consider:

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

If a member staff suspects a confiscated item has been used to commit an offence or is evidence in relation to an offence, the item should be delivered to the police.

Members of staff should use their judgement to decide to return, retain or dispose of any other items **banned under the school rules**. 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.

The member of staff should take into account all relevant circumstances and use their professional judgement to determine whether they can safely dispose of the seized item. In taking into account all relevant circumstances, the member of staff should consider:

- the value of the item;
- whether it is appropriate to return the item to the pupil or parent; and
- whether the item is likely to continue to disrupt learning or the calm, safe and supportive environment of the school.

Members of staff should follow any additional guidance and procedures on the retention and disposal of items put in place by the school.

## **12. 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.

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
- 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 member of staff should confiscate the device, avoid looking at the device and refer the incident to the designated safeguarding lead (or deputy) as the most appropriate person to advise on the school's response. Handling such reports or concerns can be especially complicated and schools should follow the principles as set out in Keeping children safe in education.

If a member of staff 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 determining whether there is a 'good reason' to examine the data or files, the member of staff 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 member of staff 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 member of staff 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.

## **13. 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.

## **14. Further Information**

Other relevant departmental advice and statutory guidance:



<https://www.gov.uk/government/publications/behaviour-and-discipline-in-schools>

<https://www.gov.uk/government/publications/school-and-college-security/school-and-college-security#overview>

<https://www.gov.uk/government/publications/equality-act-2010-advice-for-schools>

<https://www.gov.uk/government/publications/use-of-reasonable-force-in-schools>

<https://www.gov.uk/government/publications/use-of-reasonable-force-in-schools>

<https://www.gov.uk/government/publications/drugs-advice-for-schools>

<https://www.gov.uk/government/publications/sharing-nudes-and-semi-nudes-advice-for-education-settings-working-with-children-and-young-people/sharing-nudes-and-semi-nudes-advice-for-education-settings-working-with-children-and-young-people#sec2>

<https://www.gov.uk/guidance/police-and-criminal-evidence-act-1984-pace-codes-of-practice>