



## **SEARCHING, SCREENING AND CONFISCATION POLICY**

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# SEARCHING, SCREENING AND CONFISCATION POLICY

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## 1 PURPOSE

The Department of Education guidance on Searching, Screening and Confiscation sets out the statutory powers provided to staff which allows the searching and screening of students. This policy is provided to instil confidence in staff to use those powers if and when needed and in particular the use of the power to search students without consent. It explains the powers Academy staff have to seize and then confiscate items found during a search. The legislation covering these powers are set out in paragraph 12.

## 2 AIM

- To allow a transparent and fair document to inform staff, students and visitors as to the Academy policy on searching, screening and confiscation
- To inform Academy staff of their powers in relation to the searching of students
- To advise on actions to be undertaken when material or items are found
- To allow the Academy to be a safe environment for staff, students and visitors

This policy should be read in conjunction with our following related policies and procedures:

- Banned Items Policy
- Child Protection and Safeguarding Policy
- Behaviour Policy
- Suspension and Permanent Exclusion Policy

## 3 SEARCHING

The senior, house and safeguarding teams can search any student for any item with the students consent. SRPA have authorised a number of staff to undertake searches of students and their possessions. These staff members have received training on the legislation and principals related to searching.

The authorised team have the statutory power to search students, or their possessions (Possessions means any goods over which the student has, or appears to have, control this includes desks, lockers and bags), with or without consent where they have **reasonable grounds for suspecting** that the student may have a prohibited item in their possession.

A prohibited item for a student of any age at our Academy is:

- Knives or weapons
- 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 the property of, any person (including the student)
- Alcohol
- Fireworks
- Pornography
- Tobacco and cigarette papers/vapes

### **For the purpose of this policy**

The definition of '**knife**' includes any bladed article, such as craft knife, Stanley knife, Swiss army knife, fishing knife, razor, kitchen knife etc. or any bladed item including improvised or self-made items.

The term '**weapon**' refers to any gun, including air rifle, BB gun, toy gun, pellet gun, crossbow, Taser, blow pipe, knuckleduster or any similar item and includes any item made for the purpose of assault or defence including improvised or self-made items.

**Self-made items** are those that have been crafted or adapted for the purpose of self-harm, or to threaten others, and include but is not restricted to shards of glass, mirrors, sharpened sticks, pencil sharpener blades, broken rulers.

**Items used offensively** refers to routine items (e.g. compass, technology equipment, aerosol, sports bat, pencil) used inappropriately to cause harm, distress or intimidation.

This is not an exhaustive list and could include other bladed items, equipment or weapons not specified. The policy is not constrained by the criminal definition of an offensive weapon but refers to **any item which could cause harm, injury or distress to the holder or others, or which could be used to threaten, alarm, distress or intimidate others.**

When exercising their powers, we will consider the age and needs of students being searched or screened. This includes the individual needs or learning difficulties of students with Special Educational Needs (SEND) and make reasonable adjustments that may be required where a student has a disability.

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

## **4 BEFORE THE SEARCH**

Where reasonable grounds for a search are established, the form (Appendix B) should be completed. At all times, the search should be carried out with a staff member and witness of the same sex and their details recorded on the form (Appendix B) and tracker (Appendix A).

The law states the member of staff conducting the search must be of the same sex as the student 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 student 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 student **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.

If a student continues to refuse to co-operate, the member of staff may sanction the student in line with the Academy'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 Teacher, designated safeguarding lead (or deputy) or pastoral member of staff who may have more information about the student. During this time the student should be supervised and kept away from other students.

If the student 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 Academy rules.

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 student 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 student themselves.

## 5 DURING A SEARCH

### Where

An appropriate location for the search should be found such as a House base. Where possible, this should be away from other students. The search must only take place on the Academy premises or where the member of staff has lawful control or charge of the student, for example on an Academy trip.

### Who

There is a limited exception to this rule. This is that a member of staff can search a student 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 student **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. (See Appendices)

### The Extent of the Search

A member of authorised staff may search a student's outer clothing, pockets, possessions, desks or lockers.

The person conducting the search must not require the student 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.

Staff members should be sensitive to whether such outer clothing is worn for Religious reasons when conducting a search.

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

A student's possessions can only be searched in the presence of the student 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 may use a metal detector to assist with the search.

The Designated Safeguarding Lead or Headmaster may complete a non-invasive drug screening test if our investigation leads us to render this necessary. Our tests allow skin, property or possessions to be tested for illegal substances. These are not conducted routinely on students but following evidence gathering.

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

## **6 STRIP SEARCHING**

A strip search is a search involving the removal of more than outer clothing. Strip searches on Academy 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, Academy staff retain a duty of care to the student(s) involved and should advocate for student wellbeing at all times.

Before calling police into Academy, staff should assess and balance the risk of a potential strip search on the student'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. Once the police are on Academy premises, the decision on whether to conduct a strip search lies solely with them, and the role of the Academy is to advocate for the safety and wellbeing of the student(s) involved.

Unless there is an immediate risk of harm and where reasonably possible, staff should inform a parent of the student 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 Academy will keep records of strip searches that have been conducted on Academy 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 student or others, whenever a strip search involves exposure of intimate body parts there must be at least two people present other than the student, one of which must be the appropriate adult. The role of the appropriate adult is to safeguard the rights, entitlements and welfare of children and vulnerable adults in police custody. This adult must not be a police officer or otherwise associated with the police. Examples of an appropriate adult include, but are not limited to, a parent, relative, social worker, teacher or, if the person

is in the care of a local authority or voluntary organisation, a person representing that authority or organisation. Note that an appropriate adult is not required when a student is eighteen or above. If the student's parent would like to be the appropriate adult, the Academy should facilitate this where possible. Police officers carrying out the search must be of the same sex as the student being searched. An appropriate adult not of the same sex as the student being searched may be present if specifically requested by the student. Otherwise, no-one of a different sex to the student being searched is permitted to be present, and the search must not be carried out in a location where the student could be seen by anyone else.

Except in urgent cases as above, a search of a student may take place without an appropriate adult only if the student 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 student'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 student involved, as well as for staff and other students affected, especially if undertaken on Academy 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 student 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**

Students 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 Academy which gives attention to the student's wellbeing and involves relevant staff, such as the designated safeguarding lead (or deputy). Safeguarding will 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 student 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, students should feel that they have an opportunity to express their views regarding the strip search and the events surrounding it. Academy staff should give particular consideration to any students who have been strip searched more than once and/or groups of students who are more likely to be subjected to strip searching with unusual frequency, and consider any preventative approaches.

### **After a Search**

Whether or not any items have been found as a result of any search, we will consider whether the reasons for the search, the search itself, or the outcome of the search give cause to suspect that the student is suffering, or is likely to suffer harm, and/or whether any specific support is needed. Where this may be the case, we will follow the Academy's child protection and safeguarding 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.

If a student is found to be in possession of a prohibited item listed in paragraph 3, then the staff member should alert the designated safeguarding lead (or deputy) and the

student should be sanctioned in line with the Academy's behaviour policy to ensure consistency of approach.

## 7 INFORMING PARENTS

Parents should **always** be informed of any search for a **prohibited item** listed 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 Academy has taken, including any sanctions applied.

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

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

## 8 CONFISCATION

Authorised staff can seize any prohibited item found as a result of a search. They can also seize any item, however found, which they consider harmful or detrimental to Academy discipline.

Being in possession of a prohibited item – especially knives, weapons, illegal drugs or stolen items – may mean that the student 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 students 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.

### 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:

- poses a risk to staff or students;
- is prohibited, or identified in the Academy rules for which a search can be made; or
- 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. 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, the member of staff must have regard to the guidance below 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 controlled drug. When 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. If the member of staff 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 student.

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.

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 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 article. In taking into account the relevant circumstances, the member of staff should consider the following:

- 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 Academy staff may judge it appropriate to contact the police if the items are valuable;
- whether the item is banned by the Academy;
- 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 Academy 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 student or parent; and
- whether the item is likely to continue to disrupt learning or the calm, safe and supportive environment of the Academy.

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

## **9 SCREENING**

Authorised staff can require students to undergo screening by a walkthrough 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 student. The Academy's statutory power to make rules on student behaviour and their duty as an employer to manage the safety of staff, students and visitors enables them to impose a requirement that students undergo screening.

If a student refuses to be screened, the Academy may refuse to have a student on the premises. Health and Safety legislation requires an Academy to be managed in a way which does not expose students or staff to risks to their health and safety and this would include making reasonable rules as a condition of admittance.

If a student fails to comply, and the Academy does not let the student in, the Academy has not excluded the student and the student's absence will be treated as unauthorised. In the case of a student being under the age of 18 then the guidelines set out in the Child protection and Safeguarding Policy should be adhered to regarding the duty of care to the student and ensuring their safe return home or making arrangements with a parent/carer to facilitate the students care.

## **10 SEARCHING WITH CONSENT**

Authorised staff have a common law power to search students, with their consent, for any item. Staff are not required to have formal written consent from the student for this type of search. It is enough for the member of staff to ask the student to turn out their pockets or to allow a member of staff to look in the student's bag with the agreement of the student.

In undertaking a search with consent any vulnerability of the student should be considered such as any SEND or learning difficulties. In these circumstances a member of the SLC should be present to support the student and where needed to assist in any search.

## 11 SEARCHING WITHOUT CONSENT

Legislation sets out the powers a member of staff has in regards to searching a student without consent. Staff members can only undertake a search without consent if they have reasonable grounds for suspecting that a student may have in their possession a prohibited item. The staff member must decide in each particular case what constitutes reasonable grounds for suspicion. An example may be overhearing students talking about being in possession of a prohibited item or a student behaving in a way causing suspicions to be raised.

As with search for consent, consideration, must be given to any additional support needs that the learner may have and a member of the SLC should be present where ever possible.

This type of search would again require the completion of Appendix B.

## 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. 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 member of staff should confiscate the device, switch to airplane mode, 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 Academy's response. Handling such reports or concerns can be especially complicated and Academies should follow the principles as set out in Keeping children safe in education. The UK Council for Internet Safety also provides the following guidance to support Academy staff and designated safeguarding leads: Sharing nudes and semi-nudes: advice for education settings working with children and young people.

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 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 paragraphs below.

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 Academy 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 student 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 LEGISLATION**

This policy complies with the relevant sections of:

- 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
- Keeping Children Safe in Education
- Working Together to Safeguard Children







## Searching, Screening and Confiscation

### Record of Action

Date		Time		Location	
------	--	------	--	----------	--

Pupil name		R2L Group	
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Search conducted by		Signed	
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Search witnessed by		Signed	
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Were other pupils present	Y/N	If yes, who
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#### Reason for search:

- Knives and weapons
- Alcohol
- Illegal drugs
- Stolen item
- Any article reasonably suspected to be used to commit an offence or cause personal injury and/or damage property
- Tobacco/cigarette papers/vapers/lighters
- Fireworks
- Pornographic images
- Other \_\_\_\_\_

#### Intelligence received/reason for search:

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**Search:**

- A = Blazer & Pockets
- B = A + Possessions
- C = A + B + Pat Down
- D = A + B + C + Screening

**Items found during search:**

None

**Details of items:**

**Actions taken:**

Have parents been contacted?  Yes  No

Prior to the inclusion of this record into the tracker, Mrs R Gilbert, Deputy Head Teacher will review all Records of Action and sign off.

Signed \_\_\_\_\_ Mrs R Gilbert  
Deputy Head Teacher Date \_\_\_\_\_

Logged on tracker by \_\_\_\_\_