

Bridlington School

Searching, Screening and Confiscation Policy (non-statutory)



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Aim

To provide a clear transparent policy that allows members of staff, volunteers and students to understand roles & responsibilities around search and confiscation.

The policy applies to all staff.

Legislation and Guidance

The Health and Safety at Work Act 1974 places a duty on employers to ensure, as far as is reasonably practicable, the health, safety and welfare at work of staff, students and other users of its premises and aims to provide a safe, healthy and high quality learning environment. This includes the appropriate policing of school property and not limited to personal belonging searches, etc.

This policy also relates to the Education and Inspections Act 2006 and the Misuse of Drugs Act 1971 s.8- Amendment 8 (3.3)

- Ultimate responsibility for this policy and procedure lies with the Principal.
- It is a criminal offence to knowingly allow premises the Colleges own, manage or have responsibility for, to be used by any other person for administration or use of any controlled drugs and the production of such drugs. The law requires that if staff become aware of the use or supply of illicit drugs on the premises, then reasonable action must be taken to prevent this continuing.

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 a right to expect a reasonable level of personal privacy. The powers to search in the Education Act 1996 are compatible with Article 8.

Other relevant legislation:

- Education Act 1996
- Education and Inspections Act 2006
- Education Act 2011 Part 2 (Discipline)
- The School Behaviour (Determination and Publicising of Measures in Academies) Regulations 2012
- Health and Safety at Work etc. Act 1974
- Obscene Publications Act 1959
- Children Act 1989
- Human Rights Act 1998
- Computer Misuse Act 1990
- Keeping Children Safe in Education 2022

Introduction

This policy is intended to give clear guidance on the screening, searching and confiscation of student's property and residential premises and takes into account the 'Department for Education non- statutory guidance (2018) - Screening, Searching and Confiscation – Advice for Headteachers, staff and governing bodies'.

Searching

- School staff can search a student for any item banned under the school rules, if the student agrees.
- The Headteacher and staff authorised by them have a statutory power to search students or their possessions, without consent, where they suspect the student has certain prohibited items. The items that can be searched for under this power are:
 - knives or weapons,
 - alcohol,
 - illegal drugs,
 - drug paraphernalia,
 - stolen items,
 - tobacco, cigarette papers and E-cigarettes,
 - 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 property of, any person (including the student).

Confiscation

- School staff can seize any banned or prohibited item found as a result of a search or which they consider harmful or detrimental to school discipline.

Screening

The schools' statutory power to make rules on pupil behaviour, under Section 89 of the Education and Inspections Act 2006, and their duty as an employer to manage the safety of staff, pupils and visitors, under Section 3 of the Health and Safety at work Act 1974, enables the school to impose a requirement that pupils undergo screening.

The school retains the right to screen students by walk through or hand held metal detectors, without the consent of the student. This type of screening can be carried out by an authorised member of staff but staff must not use physical contact.

Searching with consent

Schools' common law powers to search:

- School staff can search students with their consent for any item which is banned by the school rules.
- Formal written consent from the pupil is not required for this sort of search– it is enough for the staff member to ask the student to turn out his or her pockets or bag and for the student to agree.
- If a member of staff suspects a student has a banned item in his/her possession, they can instruct the student to turn out his or her pockets or bag and if the student refuses, the staff member can apply the positive discipline policy.
- A student refusing to co-operate with such a search raises the same kind of issues as where a student refuses to stay in a detention or refuses to stop any other unacceptable behaviour when instructed by a member of staff – in such circumstances the school can apply the positive discipline policy.

Searching without consent

What can be searched for?

Prohibited items:

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

Who can do the search?

- The Headteacher or a member of senior staff authorised by the Headteacher.

Under what circumstance?

- The authorised staff member must be the same sex as the student being searched.
- There must be a witness staff member (ideally the same sex as the student being searched).
- There is a limited exception to this rule. A search can be carried out of a pupil of the opposite sex and/or without a witness present but only if there is reason to believe that there is risk of serious harm if the search is not conducted immediately or where it is not reasonably practicable to summon another member of staff.

When can a search take place?

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

Authorising members of staff?

- The Headteacher should decide who to authorise to use these powers and consider whether additional training is required. There is no requirement to provide authorisation in writing.
- At Bridlington School the Headteacher authorises senior staff to undertake searches.
- Staff other than security staff can refuse to undertake a search.

Establishing grounds for a search

- The designated person can only undertake a search without consent if they have reasonable grounds for suspecting that a student 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, staff may have heard other pupils talking about the item or they might notice a pupil behaving in a way that causes them to suspect that the pupil is concealing a prohibited item.
- In the exceptional circumstances when it is necessary to conduct a search of a pupil of the opposite sex or in the absence of a witness, the member of staff conducting the search should bear in mind that a pupil's expectation of privacy increases, as they get older.
- The powers allow school staff to search regardless of whether the pupil is found after the search to have that item. This includes circumstances where staff suspect a pupil of having items such as illegal drugs or stolen property which are later found not to be illegal or stolen.
- School staff may wish to consider utilising CCTV footage in order to make a decision as to whether to conduct a search for an item.

Searching a student

Searches will only be carried out by a member of staff who has been authorised to do so by the Headteacher, or by the Headteacher themselves.

Subject to the exception below, the authorised member of staff carrying out the search will be of the same sex as the student, and there will be another member of staff present as a witness to the search.

An authorised member of staff of a different sex to the student can carry out a search without another member of staff as a witness if:

- The authorised 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 student; or
- It is not reasonably practicable for the search to be carried out in the presence of another member of staff

When an authorised member of staff conducts a search without a witness they should immediately report this to the safeguarding lead (designated safeguarding lead), and ensure a written record of the search is kept.

If the authorised member of staff considers a search to be necessary, but is not required urgently, they will seek the advice of the Headteacher, designated safeguarding lead (or deputy) or pastoral member of staff who may have more information about the student. During this time the student will be supervised and kept away from other students.

A search can be carried out if the authorised member of staff has reasonable grounds for suspecting that the student 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 student has agreed.

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

Before carrying out a search the authorised member of staff will:

- Be aware of the agreed risk assessment that requires the search
- Assess whether there is an urgent need for a search
- Assess whether not doing the search would put other students or staff at risk
- Consider whether the search would pose a safeguarding risk to the student
- Explain to the student why they are being searched
- Explain to the student what a search entails – e.g. “I will ask you to turn out your pockets and remove your scarf”
- Explain how and where the search will be carried out
- Give the student the opportunity to ask questions
- Seek the student’s co-operation

If the student refuses to agree to a search, the member of staff can give an appropriate behaviour sanction.

If they still refuse to co-operate, the member of staff will contact the designated safeguarding lead (or deputy) or pastoral lead, to try to determine why the student is refusing to comply.

The authorised member of staff will then decide whether to use reasonable force to search the student. This decision will be made on a case-by-case basis, taking into consideration whether conducting the search will prevent the student harming themselves or others, damaging property or from causing disorder.

The authorised member of staff can use reasonable force to search for any prohibited items identified in section 3, but not to search for items that are only identified in the school rules.

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

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

Outer clothing includes:

- Any item of clothing that is not worn immediately over a garment that is being worn wholly next to the skin or being worn as underwear (e.g. a jumper or jacket being worn over a t-shirt)
- Hats, scarves, gloves, shoes, boots

The authorised member of staff’s power to search outlined above does not enable them to conduct a strip search (removing more than the outer clothing) and strip searches on school premises shall only be carried out by police officers in accordance with the [Police and Criminal Evidence Act 1984 \(PACE\) Code C](#).

Searching student’s possessions

Possessions means any items that the student has or appears to have control of, including:

- Desks
- Lockers
- Bags

A student’s possessions can be searched for any item if the student agrees to the search. If the student does not agree to the search, staff can still carry out a search for prohibited items (listed in section 3) and items identified in the school rules.

An authorised member of staff can search a student’s possessions when the student and another member of staff are present.

If there is a serious risk of harm if the search is not conducted immediately, or it is not reasonably practicable to summon another member of staff, the search can be carried out by a single authorised member of staff.

Electronic Devices

Members of staff authorised by the Headteacher to carry out searches for and of electronic devices and to access and delete data / files from those devices should receive training that is specific and relevant to this role. Specific training is required for those staff who may need to judge whether material that is accessed is inappropriate or illegal.

The examination of the data / files on the device should go only as far as is reasonably necessary to establish the facts of the incident. Any further intrusive examination of personal data may leave the school open to legal challenge.

Following an examination of an electronic device, if the authorised member of staff 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.

If inappropriate material is found on the device, the authorised member of staff the authorised member of staff should secure the device and refer it to the Designated Safeguarding Lead, Headteacher and Deputy Head by making a referral on CPOMs. If the material is of such seriousness that it requires the involvement of the police or East Riding Safeguarding Hub then a referral will be made to the relevant agency.

If data / files are deleted, a record should be kept of the reasons for the deletion by making an entry in CPOMs.

The Education Act 2011 allows authorised persons to examine data on electronic devices if they think there is a good reason to do so. In determining a 'good reason' to examine or erase the data or files the authorised 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 could break the school rules.

Use of force

Reasonable force may be used by the person conducting the search by law but the school does not sanction the use of force in searching a student except in exceptional circumstances when the Headteacher is present or has specifically authorised it.

Informing the designated safeguarding lead (DSL)

The staff member who carried out the search should inform the DSL without delay:

- Of any incidents where the member of staff had reasonable grounds to suspect a student was in possession of a prohibited item as listed in section 3
- If they believe that a search has revealed a safeguarding risk

All searches for prohibited items (listed in section 3), including incidents where no items were found, will be recorded in the school's safeguarding system.

Informing parents and dealing with complaints

Parents will always be informed of any search for a prohibited item (listed in section 3). A member of staff will tell the parents as soon as is reasonably practicable:

- What happened
- What was found, if anything
- What has been confiscated, if anything
- What action the school has taken, including any sanctions that have been applied to their child
- That a log will be kept within the Safeguarding team on CPOMS.

Complaints about screening or searching will be dealt with through the normal school complaints procedure.

The power to seize and confiscate items. What the law says:

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

Items found as a result of a 'with consent' search

- The member of staff can use their discretion to confiscate, retain and/or destroy any item found as a result of a 'with consent' search so long as it is reasonable in the circumstances.
- Where any article is 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.

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. It should not be returned to the student.
- Where they find **controlled drugs**, these must be delivered to the police as soon as possible unless there is a good reason not to do so – in which case the drugs must be disposed of.
- Where staff find **other substances** which are not believed to be controlled drugs these can be confiscated where a member of staff 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 unless there is a good reason not to do so – in which case the stolen item should be returned to the owner. These stolen items may be retained or disposed of if returning them to their owner is not practicable.

- Where a member of staff finds **tobacco or cigarette papers** they may retain or dispose of them. As with alcohol, this means that schools can dispose of tobacco or cigarette papers as they think appropriate but this should not include returning them to the pupil.
- **Fireworks** found as a result of a search may be retained or disposed of but should not be returned to the pupil.
- If a member of staff finds a **pornographic image**, they may dispose of the image unless they have reasonable grounds to suspect that its possession constitutes a specified offence (i.e. it is extreme or child pornography) in which case it must be delivered to the police as soon as reasonably practicable.
- Where an article that has been (or is likely to be) used to commit an offence or to cause personal injury or damage to property is found it may be delivered to the police or returned to the owner. It may also be retained or disposed of.
- Where a member of staff finds an **item which is banned under the school rules** they should take into account all relevant circumstances and use their professional judgement to decide whether to return it to its owner, retain it or dispose of it.
- Any **weapons or items which are evidence of an offence** must be passed to the police as soon as possible.

Statutory guidance on the disposal of controlled drugs and stolen items

- 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 guidance issued by the Secretary of State: (see paragraphs 1 to 4 below):
 - In determining what a 'good reason' is, the member of staff should take into account all relevant circumstances and use their professional judgement to determine whether they can safely dispose of a seized article.
 - Where staff are unsure as to the legal status of a substance and have reason to believe it may be a controlled drug they should treat it as such.
 - With regard to stolen items, it would not be reasonable or desirable to involve the police in dealing with low value items such as pencil cases. However, school staff may judge it appropriate to contact the police if the items are valuable (iPods/laptops) or illegal (alcohol/fireworks).

Statutory guidance for dealing with electronic devices

- Where the person conducting the search finds an electronic device that is prohibited by the school rules or that they reasonably suspects has been, or is likely to be, used to commit an offence or cause personal injury or damage to property, they may examine any data or files on the device where there is a good reason to do so. They may also delete data or files if they think there is a good reason to do so, unless they are going to give the device to the police. This power applies to all schools and there is no need to have parental consent to search through a young person's mobile phone if it has been seized in a lawful 'without consent' search and is prohibited by the school rules or is reasonably suspected of being, or being likely to be, used to commit an offence or cause personal injury or damage to property.

- The member of staff must have regard to the following guidance issued by the Secretary of State when determining what is a “good reason” for examining or erasing the contents of an electronic device:
 - In determining a ‘good reason’ to examine or erase the data or files the staff member should reasonably suspect that the data or file on the device in question has been, or could be, used to cause harm, to disrupt teaching or break the school rules.
 - If an electronic device that is prohibited by the school rules has been seized and the member of staff has reasonable grounds to suspect that it contains evidence in relation to an offence, they must give the device to the police as soon as it is reasonably practicable. Material on the device that is suspected to be evidence relevant to an offence, or that is a pornographic image of a child or an extreme pornographic image, should not be deleted prior to giving the device to the police.
 - If a staff member does not find any material that they suspect is evidence in relation to an offence, and decides not to give the device to the police, they can decide whether it is appropriate to delete any files or data from the device or to retain the device as evidence of a breach of school discipline.
 - All school staff should be aware that behaviours linked to sexting put a child in danger. Governing bodies should ensure sexting and the school’s approach to it is reflected in the child protection policy. The UK Council for Child Internet Safety (UKCCIS) Education Group has recently published the advice - [sexting in schools and colleges - responding to incidents and safeguarding young people](#).
 - If an electronic device is retained or confiscated it should be kept locked in a secure location with the Designated Safeguarding Lead or the Headteacher.

Additional Guidance on Retention and Disposal of items.

Taking temporary possession of and disposal of suspected illegal drugs

The law permits authorised school staff to take temporary possession of a substance suspected of being an illegal drug, for the purposes of preventing an offence from being committed or continued in relation to that drug.

In taking temporary possession and disposing of suspected legal drugs Colleges are advised to:

- Seal the sample in a plastic bag or envelope and include details of the date and time of the seizure/find and witness present
- Pass to the Pastoral Manager, SLT member who will take the items to the Designated Safeguarding Lead or the Headteacher as soon as practicable. The item will be stored in a secure location with access limited to senior members of staff .
- The Designated Safeguarding Lead or Headteacher will notify the police and arrange a time to hand the items to them for disposal.
- The Designated Safeguarding Lead or Headteacher will inform parents/carers, unless this would jeopardise the safety of the student

Monitoring of Searches

Yearly reviews will be carried out by the DSL and Headteacher to ensure best practice and policy is adhered to.

Further sources of information:

Associated resources (external links)

- [Use of Reasonable Force - advice for headteachers, staff and governing bodies Behaviour and Discipline in Schools](#)
- [Behaviour and Discipline in Schools - advice for head teachers and school staff](#)
- [Keeping children safe in education statutory guidance for schools and colleges](#)
- [UK Council for Child Internet Safety- UKCCIS Sexting in schools and colleges - responding to incidents and safeguarding young people](#)

Legislative links

- [The Education Act 1996](#)
- [Education and Inspections Act 2006](#)
- [The Schools \(Specification and Disposal of Articles\) Regulations 2012](#)
- [School Behaviour \(Determination and Publicising of Measures in Academies\) Regulations 2012](#)
- [Health and Safety at Work etc Act 1974](#)