



Policy:	<b>SEARCH AND CONFISCATION POLICY</b>
Applies to:	<i>Warwick Senior and Junior School Pupils</i>
Authors:	<i>Senior Deputy Head</i>
Approved by:	<i>J S Barker, Head</i>
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Signed:	<i>Richard Thomson, Deputy Head Pastoral</i>

## SEARCH AND CONFISCATION POLICY

Warwick School is committed to safeguarding and promoting the welfare of the members of its community. 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. Accordingly, there may be occasions when it becomes necessary to screen pupils or search a pupil and/or their belongings. This policy sets out the circumstances in which screening of pupils or a search can be carried out and the means by which it should be done.

### **1. General powers**

All schools have a general power to impose reasonable and proportionate disciplinary measures (Education and Inspections Act 2006). This enables a member of staff to confiscate, retain or dispose of a pupil's property as a disciplinary penalty where it is reasonable to do so.

### **2. Guidance**

The school's policy on searching and confiscation has due regard to the DfE guidance: Searching, Screening and Confiscation: advice for schools (September 2022)

### **3. Prohibited Items**

The following are prohibited items:

A) Under Section 550ZA(3) of the Education Act 1996 and Regulation 3 of the Schools (Specification and Disposal of Articles) Regulation S1 2012 / 951:

- knives or weapons;
- alcohol;
- illegal drugs;
- stolen items;
- tobacco and cigarette papers;
- electronic vapes;
- fireworks;
- pornographic images;

– any article a staff member 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)

B) Other items banned by the school rules: vapes and paraphernalia relating to smoking, drugs or vaping. The school has banned these items as it reasonably believes them to be likely to cause harm or disruption.

Pupils must not have any prohibited items in their possession on school premises or at any time when they are in lawful charge and control of the school such as on a school trip.

#### **4. Searching a pupil**

##### ***a) Who can conduct a search***

Under common law, all members of staff have the power to search a pupil for any item if the pupil agrees to a search. However it is best practice if only the Head or the members of staff authorised by the Head carry out a search.

If a pupil does not agree to a search being carried out, only the Head or the members of staff authorised by the Head can carry out the search – see below.

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

A member of staff of a different sex to the pupil can carry out a search without another member of staff as a witness 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.
- When a member of staff conducts a search without a witness, they should immediately report this to another member of staff and ensure a written record of the search is kept.

##### ***b) When to search***

A search can be carried out if the member of staff has reasonable grounds for suspecting that the pupil is in possession of a prohibited item including any item identified in the school rules for which a search can be made (vapes and paraphernalia relating to smoking, drugs and vaping).

A search can also be carried out for any non-prohibited item if the pupil has agreed.

When exercising these powers, the school must consider the age and needs of the pupil being searched. This includes the individual needs and learning difficulties of pupils with Special Educational Needs (SEN) and making reasonable adjustments where these are required for pupils with a disability.

If a search is being considered, the focus will be on the safeguarding needs of the pupil and their wishes and feelings will be taken into account.

##### ***c) Before carrying out a search***

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

- assess whether there is an urgent need for a search
- assess whether not doing the search would put other pupils or staff at risk
- consider whether the search would pose a safeguarding risk to the pupil
- explain to the pupil why they are being searched and what the search entails – e.g. “I will ask you to turn out your pockets and remove your scarf” - so that they understand and any agreement they give is informed
- explain where the search will be carried out
- give the pupil the opportunity to ask questions
- seek the pupil’s co-operation

If the authorised member of staff considers a search to be necessary, but is not required urgently, they will seek the advice of the Head, designated safeguarding lead (or deputy) or pastoral member of staff who may have more information about the pupil. The DSL should liaise with the head and member of staff authorised to search to inform them of issues- especially ongoing enquiries under section 47 of the Children Act 1989 and police investigations. This should include being aware of the requirement for children to have an Appropriate Adult. Further information can be found in the Statutory guidance - PACE Code C. During this time the pupil will be supervised and kept away from other pupils.

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.

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

#### ***d) If a pupil refuses to agree to be searched***

When a pupil is not willing to cooperate with a search and is not deemed to have sufficient maturity or understanding of the situation, a parent’s cooperation will be sought if possible.

The authorised member of staff will contact the Head or Designated Safeguarding Lead (or deputy), to try to determine why the pupil is refusing to comply, if possible.

An authorised member of staff can use reasonable force to search for any prohibited items identified in Section 3A above, but not to search for items that are only identified in the school rules, (Section 3B above).The authorised member of staff will decide whether to use reasonable force to search the pupil on a case-by-case basis, taking into consideration whether conducting the search will prevent the pupil harming themselves or others, damaging property or from causing disorder.

If a pupil refuses to agree to a search being conducted for items that are not ‘prohibited items’ as listed above, a disciplinary sanction in line with the school’s disciplinary policy may be issued.

#### ***e) Carrying out a pupil search***

An appropriate location for the search will be found. Where possible, this will be away from other pupils. The search will 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.

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

An authorised member of staff may search a pupil'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

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

- lockers
- bags

A pupil's possessions can be searched for any item if the pupil agrees to the search. If the pupil does not agree to the search, staff can still carry out a search for prohibited items and items identified in the school rules.

An authorised member of staff can only search a pupil's possessions when the pupil and another member of staff are present.

## **5. Strip searching by police**

An 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.

Whilst the decision to carry out a strip search and the search itself are police matters, school staff still have a duty of care to any pupil involved and should advocate for pupil wellbeing at all times.

School staff will always consider whether introducing the potential for a strip search through police involvement is absolutely necessary and should always ensure that all other appropriate, less invasive routes have been explored

An appropriate adult should be involved in all searches at school which involve police so that pupil wellbeing can be considered.

## **6. After the search**

Whether or not any items were found in the search, the school will consider whether the reasons for the search or its outcome give reason to suspect the pupil is suffering or likely to suffer harm and whether any specific support is needed.

Where appropriate, school staff will follow the Foundation Child Protection and Safeguarding procedures and speak to the Designated Safeguarding Lead or a deputy about possible pastoral support, early help intervention or referral to children's social care.

## **7. Recording searches**

Any search by a member of staff for a prohibited item listed in section 3 above, items banned by the school rules and all searches conducted by police officers will be recorded in the school's safeguarding reporting system, including whether or not an item is found. This will allow the DSL or deputy to identify possible risks and initiate a safeguarding response if required.

Records of the search will 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.

The School will analyse any data gathered to consider whether searching falls disproportionately on any group or groups and whether any actions should be taken to prevent this.

## **8. Confiscation**

Under the School's general power to discipline, a member of staff may confiscate, retain or dispose of a pupil's property as a disciplinary penalty where it is reasonable to do so.

Confiscation of an item may take place following a lawful search, as set out above, or however the item is found if the member of staff considers it to be harmful or detrimental to School discipline.

## **9. Searching electronic devices**

An electronic device, such as a mobile phone or tablet computer, may be confiscated in appropriate circumstances in accordance with this policy. If there is good reason to suspect that the device has been, or could be used to cause harm, to disrupt teaching or break School rules, any data or files on the device may be searched and, where appropriate, data or files may be erased before the device is returned to its owner. Any search of an electronic device should be conducted in the presence of a member of the IT staff or the Pastoral Support Manager.

Any data or files will only be erased if there is good reason to suspect that the data or files have been, or could be, used to cause harm, to disrupt teaching or break School rules.

Subject to the requirements set out in KCSIE 2022, if inappropriate material is found on an electronic device, the member of staff may delete the material, retain it as evidence of a breach of School discipline or criminal offence, or hand it over to the police if the material is suspected to be evidence relevant to an offence.

Staff should consider the appropriate safeguarding response if they find images, data or files on an electronic device that they reasonably suspect will put a person at risk.

Staff should not view or forward illegal images of a child. When viewing an image is unavoidable, staff should follow the School's policy on sharing nude and semi-nude images or videos, as set out in Appendix 1 of the Safeguarding and Child Protection Policy, or consult the advice set out in the 'Searching, screening and confiscation advice (for schools)' and UKCIS guidance 'Sharing nudes and semi-nudes: advice for education settings working with children and young people'.

The school will comply with data protection law in relation to any search of any electronic device.

## **10. Disposal of confiscated items**

Alcohol: alcohol which has been confiscated will be destroyed.

Controlled drugs: controlled drugs will usually be delivered to the police as soon as possible. In exceptional circumstances and at the discretion of the Head or authorised member of staff, the

drugs may be destroyed without the involvement of the police, if there is good reason to do so. All relevant circumstances will be taken into account and staff will use professional judgement to determine whether the items can be safely disposed of. They will not be returned to the pupil.

Other substances: substances which are not believed to be controlled drugs, but which are harmful or detrimental to good order and discipline may be confiscated and destroyed. Where it is not clear whether or not the substance seized is a controlled drug, it will be treated as such and disposed of as above.

Stolen items: stolen items will usually be delivered to the police as soon as possible. However if, in the opinion of the Head or authorised member of staff, there is good reason to do so, stolen items may be returned to the owner without the involvement of the police. In taking into account the relevant circumstances, the member of staff should consider: the value of the item; whether the item is banned by the school; whether retaining or returning the item may place any person at risk of harm; and whether the item can be disposed of safely.

Tobacco or cigarette papers: tobacco or cigarette papers will be destroyed. Vapes will be returned to parents or disposed of.

Fireworks: fireworks will not be returned to the pupil. They will be disposed of safely at the discretion of the Head or other authorised member of staff.

Pornographic images: pornographic images involving children or images that constitute “extreme pornography” under section 63 of the Criminal Justice and Immigration Act 2008 will be handed in to the police as soon as practicable. As possession of such images may indicate that the pupil is at risk of harm, the Designated Safeguarding Lead will also be notified and will decide whether to make a referral to children’s social care.

Other pornographic images will also be discussed with the Designated Safeguarding Lead. The images may then be passed to children’s social care for consideration of any further action. If no action is to be taken by the local authority, the images will be erased after a note has been made for disciplinary purposes, confirming the nature of the material.

Article used to commit an offence or to cause personal injury or damage to property: such articles may, at the discretion of the Head or authorised member of staff taking all the circumstances into account, be delivered to the police, returned to the owner, retained 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.

Weapons or items which are evidence of an offence: such items will be passed to the police as soon as possible.

An item banned under School rules: such items may, at the discretion of the School or authorised member of staff taking all the circumstances into account, be returned to its owner, retained or disposed of. 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; whether the item is likely to disrupt learning or the calm, safe and supportive environment of the school.

Where staff confiscate a mobile electronic device that has been used in breach of School rules to disrupt teaching, the device will be kept safely until the end of the school day, when it can be claimed by its owner, unless the Head considers it necessary to retain the device for evidence in disciplinary proceedings in accordance with 10.13 below. If a pupil persists in using a mobile

electronic device in breach of School rules, the device will be confiscated and must be collected by a Parent.

Electronic devices: if it is found that a mobile phone, laptop or tablet computer, or any other electronic device, has been used to cause harm, disrupt teaching or break School rules, including carrying out cyber-bullying, the device will be confiscated and may be used in disciplinary proceedings. Once the proceedings have been concluded, the device must be collected by a Parent and the pupil may be prohibited from bringing such a device onto School premises or on educational visits. In serious cases, the device may be handed to the police for investigation.

## **11. Communication with Parents**

There is no legal requirement for the School to inform Parents before a search for banned or prohibited items takes place or to seek their consent to search their child and it will not generally be practicable to do so.

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 practicable. A member of staff should inform parents of what, if anything, has been confiscated and the resulting action the school has taken, including any sanction applied.

In some circumstances, it might also be necessary to inform parents of a search for an item banned by the school policy.

We will keep a record of all searches carried out, in accordance with paragraph 7 above.

Complaints about searching or confiscation will be dealt with through the School's parental complaints policy and procedures.

The School will take reasonable care of any items confiscated from pupils. However, unless negligent or guilty or some other wrongdoing causing injury, loss or damage, the School does not accept responsibility for loss or damage to property.

## **12. Screening**

Any member of School staff can screen pupils.

Schools can require pupils to undergo screening by a walk-through 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 pupils.

Schools' statutory power to make rules on pupil behaviour (Section 89 of the Education and Inspections Act 2006 for all maintained schools, PRUs and NMSS and the Education (Independent School Standards) (England) Regulations 2010 for academy schools and alternative provision academies) and their duty (Section 3 of the Health and Safety at Work etc. Act 1974) as an employer to manage the safety of staff, pupils and visitors enables them to impose a requirement that pupils undergo screening.

If a pupil refuses to be screened, the School may refuse to have the pupil on the premises.

Health and safety legislation requires a School to be managed in a way which does not expose pupils or staff to risks to their health and safety and this would include making reasonable rules as a condition of admittance.

If a pupil fails to comply, and the School does not let the pupil in, the School has not excluded the pupil and the pupil's absence should be treated as unauthorised. The pupil should comply with the rules and attend.

This type of screening, without physical contact, is not subject to the same conditions as apply to the powers to search without consent.

### **13. Complaints**

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

### **14. Responsibilities**

The Head is responsible for determining whether screening pupils will be organised.

The Head will ensure that this policy on screening, searching and confiscation of possessions is brought to the notice of parents.

The Head is also responsible for informing governors, staff, and pupils and of the policy, and how the policy will be put into action.

No members of staff may be directed by the Head to screen and search pupils.

### **15. Links with other policies**

Behaviour Policy

Child Protection and Safeguarding Policy

Drugs and Substance Abuse Policy

Policy on the Use of Force to Control or Restrain Pupils