


SEARCHING, SCREENING AND CONFISCATION POLICY

RESPONSIBILITY:	LEARNING & ACHIEVEMENT COMMITTEE
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PROPOSED BY:	DEPUTY HEADTEACHER
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TYPE OF POLICY:	DISCRETIONARY
ON WEBSITE:	YES

DATE AGREED BY L&A COMMITTEE:	27TH JUNE 2023
FREQUENCY OF REVIEW:	THREE YEARLY
NEXT REVIEW:	JUNE 2026

APPROVED BY:	GOVERNING BOARD
DATE APPROVED AND ISSUED:	17TH JULY 2023
SIGNATURE:	 CHAIR OF GOVERNORS

In reviewing this policy, the Learning & Achievement Committee has taken into account the provisions of the Equality Act .

Searching, Screening and Confiscation Policy

This policy is in conjunction with the Searching, Screening and Confiscation Policy from the Department of Education (July 2022). The school will follow all guidance in this policy in addition to Vapes and E-Cigarettes as prohibited items.

Ensuring school staff and students 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 student and staff welfare is protected and helps schools establish an environment where everyone is safe. This policy is intended to explain Vandyke Upper School's screening, searching and confiscation powers so that the Headteacher and other staff have the confidence to use them if necessary.

Schools and their staff are an important part of the wider safeguarding system for children. This system is described in the statutory guidance [Working together to safeguard children](#).

[Keeping children safe in education](#) makes clear that all school staff have a responsibility to provide a safe environment in which students can learn.

Before screening or conducting a search of a student, it is vital that the school considers their obligations under the European Convention on Human Rights. Under Article 8, students have a right to respect for their private life. In the context of these rights and obligations, this means that students have the right to expect a reasonable level of personal privacy.

The right under Article 8 is not absolute; it can be interfered with, but any interference with this right by a school (or any public body) must be justified and proportionate.

The powers to search in the Education Act 1996 are compatible with Article 8. A school exercising those powers lawfully should have no difficulty in demonstrating that it has also acted in accordance with Article 8. This advice will assist schools in deciding how to exercise their searching powers in a lawful way.

1. Searching

Searching can play a critical role in ensuring that schools are safe environments for all students and staff. It is a vital measure to safeguard and promote staff and student welfare, and to maintain high standards of behaviour through which students can learn and thrive.

The Headteacher and staff authorised below have a statutory power to search a student or their possessions where they have reasonable grounds to suspect that the student may have a prohibited item listed in paragraphs below

The list of prohibited items is:

- knives and weapons;
- alcohol;
- illegal drugs;
- stolen items;
- E-Cigarettes or Vapes

- any article that the member of staff reasonably suspects has been, or is likely to be used:
 - to commit an offence, or
 - to cause personal injury to, or damage to property of; any person (including the student).
- Tobacco and cigarette papers;
- Fireworks; and
- Pornographic images.

Under common law, school staff have the power to search a student for any item if the student agrees. The member of staff should ensure the student understands the reason for the search and how it will be conducted so that their agreement is informed.

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](#).

The school’s behaviour policy is communicated to all members of the school community to ensure expectations are transparent to all students, parents and staff, and provide reassurance that any searching of a student will be implemented consistently, proportionately and fairly, in line with the school’s policy.

When exercising their powers, the school must 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 (SEN) and making reasonable adjustments that may be required where a student has a disability.

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

2. The role of the Headteacher, the Designated Safeguarding Lead (DSL) and authorised members of staff

Only the Headteacher, or a member of staff authorised by the Headteacher as listed below, 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 behaviour policy. For example, a member of staff may be authorised to search for stolen property and alcohol but not for weapons or drugs.

- The Headteacher may not require any other member of staff to undertake a search if they refuse.
- The Headteacher will 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 students and staff with support from the DSL (or deputy DSL).
- The Headteacher will ensure that a sufficient number of staff are appropriately trained in how to lawfully and safely search a student 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 student who is being

searched.

- The DSL (or deputy) should be informed of any searching incidents where the member of staff had reasonable grounds to suspect a student was in possession of a prohibited item as listed in the prohibited items list in section 1. The staff member should also involve the DSL (or deputy) without delay if they believe that a search has revealed a safeguarding risk.
- If the DSL (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 DSL (or deputy) should then consider the circumstances of the student who has been searched to assess the incident against potential wider safeguarding concerns.

3. Before searching

A search can be considered if the 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.

The authorised member of staff should make an assessment of how urgent the need for a search is and should consider the risk to other students and staff.

Before any search takes place, the member of staff conducting the search should explain to the student why they are being searched, how and where the search is going to take place and give them the opportunity to ask any questions.

The authorised member of staff should always seek the co-operation of the student before conducting a search. If the student 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 student continues to refuse to co-operate, the member of staff may sanction the student 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, DSL (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 section 1, but not to search for items which are identified only in the school rules. See guidance on the [Use of reasonable force in schools](#). 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.

4. During a search

Where

An appropriate location for the search should be found. Where possible, this should be away from other students. The search must 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.

Who

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.

The extent of the search

A member of 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.

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

A member of staff is able to search lockers and desks or other personal spaces at the school for any item provided the student agrees. If the student withdraws their agreement to search, a search may be conducted both for the prohibited items listed in section 1 and any items identified in the school rules for which a search can be made.

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

5. Strip searching

The school will refer to the Searching, Screening and Confiscation guidance from the Department for Education for the process the police must follow during any strip searches.

6. After a search

Whether or not any items have been found as a result of any search, the school 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, school staff will follow the school's child protection policy and speak to the DSL (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 the paragraphs on confiscation.

If a student is found to be in possession of a prohibited item listed in section 1, then the staff member should alert the DSL (or deputy) and the student should be sanctioned in line with the school's behaviour policy to ensure consistency of approach.

7. Recording searches

Any search by a member of staff for a prohibited item listed in section 1 and all searches conducted by police officers should be recorded in the school's safeguarding reporting system (CPOMS), 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. All searches for items banned by the school rules will be recorded. Staff members should follow the school policy in these cases.

Staff will record for each search:

- the date, time and location of the search;
- which student was searched;
- who conducted the search and any other adults or students 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 whether the searches fall disproportionately on any particular groups of students. In such cases where searching is falling disproportionately on any group or groups, the school will consider whether any actions should be taken to prevent this.

8. Informing parents/carers

Parents will 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 will inform the parents of what, if anything, has been confiscated and the resulting action the school has taken, including any sanctions applied.

Schools will 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.

9. Screening

The school will follow guidance set out by the Department of Education on screening in their Searching, screening and confiscation guidance.

10. Confiscation

- 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 school rules for which a search can be made (see section 1); or
- is evidence in relation to an offence.

11. Prohibited or illegal items

Controlled drugs

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 inform the Headteacher and decide upon the method of safely disposing of the drugs. In determining whether there is a good reason to dispose of controlled drugs, it is the decision of the Headteacher who will take account the following guidance:

- all relevant circumstances and use their professional judgement to determine whether they can safely dispose of the controlled drug.
- if unsure as to the legal status of a substance and have reason to believe it may be a controlled drug, it should be treated as such.
- If the Headteacher is in doubt about the safe disposal of controlled drugs, they should be delivered 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 Headteacher believes they could be harmful.

Where a person conducting a search finds alcohol, vapes, e-cigarettes, 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 below.

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 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 in paragraph above.

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 in the paragraph below.

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 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. 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, avoid looking at the device and refer the incident to the DSL (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](#). The UK Council for Internet Safety also provides the following guidance to support school 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 78 and 79 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 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 student and/or the parent refuses to delete the data or files themselves.

Confiscation as a disciplinary penalty

Schools' general power to discipline enables a member of staff to confiscate, retain or dispose of a student'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.