

SCREENING, SEARCHING AND CONFISCATING POLICY

Policy reviewed by: Andrew Greenway – Director of Information

Review date: 01/06/2024

Version: v8.0

Policy actioned from: September 2024

Next review date: June 2026

Reviewer's Signature: 

Please note: 'School' refers to Chatsworth Schools; 'parents' refers to parents, guardians and carers. This is a whole school policy, which also applies to the Early Years Foundation Stage.

Introduction

Ensuring staff and pupils feel safe and secure is vital to establishing a calm and supportive environment conducive to learning. Using searching, screening and confiscation powers appropriately is an important way to ensure pupil and staff welfare is protected and, in accordance with 'Keeping Children Safe In Education', helps the school establish an environment where everyone is safe. The school takes its responsibility for safeguarding the pupils' possessions seriously and views the theft of property as a serious disciplinary offence, which contravenes the values and rules of the community.

It is school policy to discourage pupils from bringing expensive personal items or large sums of money into school, but it is recognised that this may not always be possible.

The emphasis in school policy is on prevention, but where theft does occur, the school will investigate and, where a pupil is deemed to have stolen an item belonging to another member of the school community, he/she can expect a serious sanction. In some circumstances, this may mean a fixed-term or permanent exclusion.

Legal Background

This policy has due regard to the DfE Guidance, 'Searching, Screening and Confiscation' July 2022. It notes that, before screening or conducting a search of a pupil, it is vital that schools consider their obligations under the European Convention on Human Rights. Under Article 8, pupils have a right to respect for their private life. In the context of these rights and obligations, this means that pupils have the right to expect a reasonable level of personal privacy. The right under Article 8 is not absolute; it can be interfered with, but any interference with this right by a school (or any public body) must be 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.

Theft is understood, under the Theft Act 1988, to mean taking the property of another person with the intention of permanently depriving the owner of it.

In addition to situations relating to theft, this policy will also be applied when, for example, pupils are in possession of, or suspected to be in possession of, items which are not permitted in school, items which are inappropriate for the age and stage of development of the pupil, or items which may put other members of the school community at risk.

When exercising its powers, the school considers the age and needs of pupils being searched or screened. This includes the individual needs or learning difficulties of pupils with Special Educational Needs (SEN) and making reasonable adjustments that may be required where a pupil has a disability.

The school's 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.

This policy should be read in conjunction with the school's Positive Behaviour and Exclusion Policy.

Prevention of Theft

In order to minimise the risk of theft of property in the school community, staff should:

- discourage pupils from bringing valuable items or large sums of money into school

- encourage pupils to keep necessary valuable items in their possession at all times or hand them over to a member of staff for secure safekeeping
- discourage pupils from leaving valuable items unattended at any time unless locked in a secure location, such as a personal locker. We recommend that lockers are secured with a combination padlock.
- provide secure spaces for individuals where personal possessions can be stored safely
- regularly remind pupils of the need to be security-conscious and of the potential penalties for theft
- remind parents that payments to school should, where possible, be made electronically or by cheque to prevent the need for a pupil to carry cash to school.

Reported Theft

If a pupil reports a theft, the following procedures should be followed. As a rule, the Head or Deputy should be responsible for following up allegations of theft. If a theft is reported to another member of staff, he/she should pass the details to the appropriate Head or Deputy at the earliest possible opportunity:

- ascertain the basic details and encourage the pupil concerned to consider whether the item may have been mislaid, rather than stolen
- consider asking classmates if they have seen the item and inform staff of the missing item by email and/or at briefings
- in the circumstances where the item is not returned, report the theft to the Head, if not already informed. Log the details in the lost items list
- the Head, in discussion with the member of staff reporting the theft and/or the Deputy, will agree how the theft will be investigated and carry out or delegate the investigation. Those involved in the investigation will log all details of the investigation and report the findings to the Head
- investigations may be conducted by a form tutor at the direction and agreement of the Head.

Sanctions

If a member of the school is found to have committed theft, the Head will consult the Senior Leadership Team about the most appropriate action, with due regard to the school's Positive Behaviour and Exclusions Policy. The sanction of exclusion for any term is at the sole discretion of the Head or, in his or her absence, that of the Deputy Head.

In some circumstances, and depending on the nature of the theft, the Head will report the details to the local police who may wish to carry out their own investigation. Where a theft is likely to be reported to the police no member of staff should interview or continue any investigation until such times as the police have agreed that the school may do so. Note that the school should not impose sanctions on a student where police and criminal actions and sanctions may apply without legal consultation to prevent the risk of double punishment of a crime.

If a member of staff suspects a pupil has a banned item in his/her possession and the pupils refuses to cooperate with a search, or if a pupil refuses to comply with a school's screening procedures, the member of staff can apply an appropriate sanction, consistent with the school's Positive Behaviour and Exclusions Policy.

Screening

Screening can help provide reassurance to pupils, staff and parents that the school is taking seriously its duty to create a calm, safe and supportive environment. The school's statutory power to make rules on pupil behaviour and its duty as an employer to manage the safety of staff, pupils and visitors permit the school to require pupils to undergo screening by a walk-through or hand-held metal detector (arch or wand), even if the pupil is not suspected of having a weapon or other banned item. Any member of staff can undertake screening and the pupils' consent is not required. Screening without physical contact is not subject to the same conditions as apply to the powers to search pupils without consent. If the school decides to introduce a screening arrangement, the head will inform pupils and parents in advance to explain what the screening will involve and why it will be introduced. Where a pupil has a disability, the school will make any reasonable adjustments to the screening process that may be required. If a pupil refuses to be screened, the member of staff should consider why the pupil is not co-operating (as explained below in relation to non-cooperation regarding searching) and make an assessment of whether it is necessary to carry out a search.

Searches

Searching can play a critical role in ensuring that the school is a safe environment 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.

Establishing Grounds for a Search

1. A search without consent may only occur if the teacher believes there are reasonable grounds for suspecting that the pupil may have a prohibited item* in his or her possession.
2. 'Reasonable Grounds' may be decided in each case by the teacher on the scene. This might be suspicious behaviour, a report from another pupil, or overhearing pupils talking.
3. With the Head's permission, staff may view CCTV footage in order to make a decision as to whether to conduct a search for an item.
4. A search of a pupil's possessions must take place in the presence of the pupil.

In this context, a "pupil's possessions" means any goods over which the pupil has or appears to have control – this includes desks, lockers and bags.

*Prohibited items, as defined in the 1996 Education Act are as follows:

- knives and weapons
- alcohol
- 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
 - to cause personal injury to, or damage to property of; any person (including the pupil).
- an article specified in The Schools (Specification and Disposal of Articles) Regulations 2012, including
 - tobacco and cigarette papers**
 - fireworks
 - pornographic images.

** The 2012 regulations do not specify e-cigarettes and vapes. However, this policy serves as notice that the school will search for such items, if deemed appropriate.

A search may also be conducted for any other item banned in school documentation and identified in such documentation as an item which may be searched for.

Before the search

The authorised member of staff should assess how urgent the need for a search is and consider the risk to other pupils and staff. The member of staff conducting the search should explain to the pupil why he/she is being searched, how and where the search is going to take place and give him/her the opportunity to ask any questions. The member of staff should always seek the co-operation of the pupil before conducting a search. If the pupil is not willing to co-operate with the search, the member of staff should consider why this is. Reasons might include that the pupil:

- is in possession of a prohibited item
- does not understand the instruction
- is unaware of what a search may involve, or
- has had a previous distressing experience of being searched.

If a pupil continues to refuse to co-operate, the member of staff may sanction the pupil in line with the positive behaviour and exclusions policy. If the member of staff still considers a search to be necessary, but is not required urgently, he/she should seek the advice of the headteacher, DSL or DDSL or pastoral deputy head, who may have more information about the pupil. During this time the pupil should be supervised and kept away from other pupils. If the pupil still refuses to co-operate, the member of staff should assess whether it is appropriate to use reasonable force to conduct the search. A member of staff can use such force as is reasonable to search for any 'prohibited' items identified on page 4, but not to search for items which are identified only in the school rules. For further information, see below and refer to the school's Physical Restraint and Use of Reasonable Force Policy.

Location of a Search

Searches without consent may be carried out on school premises or elsewhere where the member of staff has lawful control or charge of the pupil, e.g. a sports match, school trip or visit.

Searching with Consent

Any member of school staff is able to conduct a search of a pupil and his or her possessions with the pupil's consent, for any item which is banned in school documentation or has been noted as unauthorised in communication with parents.

If a pupil is suspected of carrying an unauthorised item, the best approach is to ask him or her, in the presence of a second adult witness, to turn out his or her pockets or bag. If the pupil refuses to cooperate, the school has the option of imposing a sanction, as is the case where any pupil refuses to obey an instruction. If the pupil refuses, the form teacher should be informed immediately.

Searching without Consent

The head is able to authorise any member of staff to conduct a search. A member of staff, other than security staff, is entitled to decline a request to conduct a search. If a search is undertaken by a security guard who is not an employee of the school, the search should, ideally, be witnessed by a member of the school staff.

In addition to the general power to use reasonable force described above, the Head or Deputy (or any member of staff explicitly authorised by them at the time of the incident) can use such force as is reasonable given the circumstances to conduct a search. For further information, please refer to the Physical Restraint and Use of Reasonable Force Policy.

Staff should make every effort, in the presence of a second adult witness, to persuade the pupil to hand over the prohibited item to staff voluntarily. However, prohibited items may be searched for without consent of the pupil as long as:

1. the member of staff conducting the search has the permission of the Head
2. the member of staff conducting the search is the same sex as the pupil being searched. Consideration may be given to waive this expectation in age-appropriate circumstances, such as with the youngest pupils, for example, in the EYFS.
3. there is a member of staff (preferably of the same sex as the pupil) present as a witness
4. there are reasonable grounds for suspecting that the pupil is in possession of a prohibited item.

There is a limited exception to the expectations noted at points 2 and 3, above. A search can be carried out of a pupil of the opposite sex, and/or without a witness present, but only where the member of staff reasonably believes that 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.

When a member of staff conducts a search without a witness, he/she should immediately report this to another member of staff, and ensure a record of the search is kept.

Whatever the pupil's response, staff should not in any search:

- use excessive force (reasonable force may be used)
- require the pupil to remove any clothing – other than outer clothing (i.e. clothing not worn immediately against the skin or against underwear) - for the purpose of searching it. Outer clothing includes hats, shoes, boots, gloves and scarves.

A **Strip Search** (a search involving the removal of more than outer clothing) can be conducted only by the police. If a strip search is undertaken by the police on the school premises, school staff retain a duty of care to the pupil(s) involved and should advocate for the pupils' wellbeing at all times. For further guidance on strip searching, please refer to the 2022 DfE Guidance 'Searching, Screening and Confiscation'.

Extent of the Search

Schools are able to search bags, rooms, lockers or desks for any item provided the pupil agrees. If the pupil does not consent, then it is possible to conduct a search but only for the prohibited items listed above and only under the same conditions as 1-4 above.

If the pupil objects (which he/she has the right to do) staff should inform the pupil's form teacher immediately. In such cases the pupil may then be told that the police will be called. The police may then conduct a search if they believe that a crime has been committed, or to prevent harm to themselves or others following an arrest.

Senior staff must observe the following guidelines:

1. whether or not the item under search is high risk - such as a knife or drugs – school property should only be searched if the search is legitimate and has a reasonable prospect of success
2. the extent and nature of the search should be proportionate to the value of, or "risk factor" of, the item sought (even in the case of stolen property). On this basis, it might well be reasonable to search the lockers of a handful of children, particularly if they consent to the procedure
3. the extent of the search should also be proportionate to the likelihood of the item being found. It may be considered an invasion of privacy to search an entire school cohort without good cause. An example of a good cause would be a search for a very valuable or dangerous item.

After the Search

Whether or not any items have been found as a result of any search, schools should consider whether the reasons for the search, the search itself, or the outcome of the search give cause to suspect that the pupil is suffering, or is likely to suffer harm, and/or whether any specific support is needed. Where this may be the case, staff should follow the procedures in the safeguarding policy and speak to the DSL or DDSL. They will consider if pastoral support, an early help intervention or a referral to children's social care is appropriate.

Mindful of the need to maintain a whole-school approach and maintain positive relationships with parents, senior staff should always contact the affected pupil's parents after any search, regardless of the outcome. Parents *must* be contacted if a search results in the discovery of a prohibited item in a pupil's possession. A proper record should also be kept; see 'Recording of searches', below.

If the search results in a banned or prohibited item being found to be in the pupils' possession, please refer to the 'confiscation of pupil's property' section, below, for details of action to be taken after an item has been confiscated. Confiscated items should not be destroyed without good reason or kept by staff for their own use. If a pupil is found to be in possession of a prohibited item, as listed on page 4, the member of staff should alert the DSL or DDSL and the pupil should be sanctioned in line with the positive behaviour and exclusion policy.

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

Safeguarding

Being in possession of a prohibited item, especially knives, weapons, illegal drugs or stolen items, may mean that the pupil is involved, or at risk of being involved, in 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 pupils who may benefit from early help or a referral to the local authority children's social care services. In such circumstances, the school will follow the procedures identified in its safeguarding policy, as informed by DfE Guidance, 'Keeping Children Safe in Education' and 'Working Together to Safeguard Children'.

The DSL or DDSL should be informed of any searching incidents where the member of staff had reasonable grounds to suspect a pupil was in possession of a prohibited item as listed on page 4. Staff should also involve the DSL or DDSL without delay if they believe that a search has revealed a safeguarding risk.

Recording of Searches

Any search by a member of staff for a prohibited item (see page 4) and all searches conducted by the police in the school's recording system for safeguarding concerns, whether or not an item is found. This will enable the DSL or DDSL to identify possible risks and initiate a safeguarding response, if required. The school will also keep a record of searches for any items banned by the school rules. The record of a search will usually include the following information:

- 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
- what follow-up action was taken as a consequence of the search.

If the school finds itself conducting a high number of searches, it should consider whether the searches fall disproportionately on any particular groups of pupils by analysing the recorded data. In such cases where

searching is falling disproportionately on any group or groups, the school should consider whether any actions should be taken to prevent this.

Confiscation of Pupils' Property

Introduction

It is accepted that there may be occasions when it will be necessary for staff to confiscate pupils' property in the interests of the smooth running of the school. In particular, members of staff may judge that an item of property needs to be confiscated on grounds, for example, of;

- health and safety
- where there is a risk to the safeguarding and/or welfare of members of the school community
- where there has been a clear breach of school rules, including the pupil being in possession of a prohibited item
- where it is considered that items are harmful or detrimental to school discipline
- where the item is evidence in relation to an offence.

Under the Education and Inspections Act (2006) a member of staff may confiscate, retain or dispose of a pupil's property, as a disciplinary penalty, when reasonable to do so. A confiscation of a pupil's property should normally be temporary, to avoid the action falling under the Theft Act 1968, which makes it a crime to confiscate property with the intention of permanently depriving the owner of it. However, this should be noted in conjunction with three levels of possible response, noted below, which are provided with due regard to the DfE guidance on 'Searching, Screening and Confiscation' (July 2022). This guidance should be consulted for more detailed information.

Procedure

The following procedures should be followed when confiscating property:

- the member of staff should make a judgment as to whether confiscation of the item is the appropriate action. If in doubt, the member of staff should consult the Head or Deputy. Staff should take into account all relevant circumstances and use their professional judgement to determine whether they can safely dispose of the seized item, considering:
 - the value of the item
 - whether it is appropriate to return the item to the pupil or parent
 - whether the item is likely to continue to disrupt learning or the calm, safe and supportive environment of the school
- the member of staff should ask the pupil to hand over the item concerned and explain why it is being confiscated. The member of staff should also explain that the item will be handed to Reception to be locked in the school safe or another appropriate secure location
- the member of staff should personally hand the item to the appropriate person at the earliest possible opportunity and explain the background to the confiscation. Where this is not possible, the item should be handed to the Head
- the pupil's form tutor should be informed of the confiscation in person or by email
- the staff should log the confiscation in the Sanctions Log and ensure the item is held securely until it is returned to the owner, to a parent or guardian, to the police, or until it is destroyed

- the period of confiscation will depend on the nature of the item and the related offence. Generally, items should not be held for more than 24 hours; with mobile phones, for instance, it will usually be appropriate to return these at the end of the school day. It may be deemed appropriate to return the items to the parents, rather than the pupil (e.g. repeated inappropriate use of a mobile phone.); in these circumstances, contact should be made by the form tutor with the parents as soon as possible after the confiscation. If in doubt about the period of confiscation, staff should consult the Head
- where a pupil repeatedly uses a mobile phone inappropriately, he or she may be requested to hand in the phone to Reception on arrival at the start of the day and collect it at the end of school. Parents will be made aware of this requirement by the form tutor or member of the senior team.

What the school does with confiscated items

The following 3-level guidance provides an indication of the school’s action following the confiscation of an item.

| Level | Action taken | Examples |
|---------|--|--|
| Level 1 | The item is returned to the pupil or parent after a given period of time | <ul style="list-style-type: none"> • Toys and games not permitted in school • Mobile phones • Jewellery and clothing which is not permitted according to the school dress code |
| Level 2 | The item is destroyed | <ul style="list-style-type: none"> • Tobacco and tobacco-related products • Pornography* • Alcohol • Substances which are not illegal, but are considered to be harmful or detrimental to good order and discipline, such as a ‘legal highs’. If a member of staff believes they may be illegal or controlled, they should be treated as at level 3. • Fireworks |
| Level 3 | Items are handed over to the police | <ul style="list-style-type: none"> • Stolen items (where the item cannot be returned to the owner at school) • Illegal and controlled drugs • Any other substance which, although not a controlled drug, a member of staff believes could be harmful • An article that has been (or is likely to be) used to commit an offence or to cause personal injury or damage to property • Knives and other weapons • Items which are evidence of an offence |

* If a member of staff believes that pornographic images may constitute a specific offence (such as extreme or child pornography), the item and, if electronic, the device on which it is held, must be delivered to the police as soon as is reasonably practicable and the DSL must be informed immediately.

Dealing with Electronic Devices

Staff should always 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.

Where the person conducting a search finds an electronic device that is prohibited by the school rules, or reasonably suspects that it has been, or is likely to be, used to commit an offence or cause personal injury or damage to property, he or she may examine data or files on the device, where there is a good reason to do so. However, to protect him or herself from allegations of viewing or sharing indecent images, and to promote the well-being of the victim, a member of staff must avoid viewing any images which may be classified as child pornography. Therefore, it is not expected that a member of staff has seen evidence of such an issue before reporting it to the next level. Such images must never be copied, printed or shared. If a member of staff inadvertently views an indecent image, for his or her protection, this should be reported immediately to the Head. If school staff believe that a crime may have been committed, data or files must not be deleted. The device must be handed over to the police. If staff are confident that no crime has been committed, but rather that the data or images fall outside the behavioural expectations of the school, (for example, if they are designed to cause humiliation or embarrassment), staff may require them to be deleted if they think there is good reason to do so. Statutory guidance notes that there is no need to have parental consent to search through a young person's mobile device 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.

In determining whether there is 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, undermine the safe environment of the school, disrupt teaching, break the school rules or commit an offence.

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, the head should be informed and the device must be given 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, must not be deleted prior to giving the device to the police. The member of staff should be prudent in not sharing any discovered images further and should report the situation immediately to the DSL or DDSL.

A staff member who does not find any material that he or she suspects is evidence in relation to an offence, and decides not to give the device to the police, can decide, in discussion with the Head, whether it is appropriate to erase any files or data from the device or to retain the device as evidence of a breach of school discipline. A member of staff must consider whether there is good reason to erase any data or files from a device. If the data or files are not suspected to be evidence in relation to an offence, a member of staff may delete the data or files if the continued existence of the data or file is likely to continue to cause harm to any person and the pupil and/or the parent refuses to delete the data or files themselves.

All staff are made aware that behaviours linked to sexting (now referred to as 'sharing nudes and semi-nudes') put a child in danger. Such incidents must always be treated as a safeguarding matter and the DSL must be informed immediately. For further information, reference should be made to the Safeguarding and Child Protection Policy and The UK Council for Internet Safety (UKCIS) advice - [Sharing nudes and semi-nudes: advice for education settings working with children and young people](#).

Training

There is no legal requirement for a member of staff carrying out a search to receive training beforehand. However, senior staff have the responsibility of ensuring that all staff are aware of, and understand, the guidelines set out in this document.

Victimisation

As already noted, it is not necessary to search the belongings of every pupil in the class or year group each time that an item goes missing or there is a suspicion of drugs use. The extent of the search must be proportionate to the value of the lost item or the danger involved.

All staff must ensure that there are very good reasons for limiting their search to certain individuals. Targeting the 'usual suspects' could give rise to an allegation of bullying or victimisation.

See also the final paragraph under 'Recording of Searches' on page 8.

Interpretation

In this policy, the term "senior manager" means the School Head and their designated deputies.

This policy applies to all employees in all Schools (save for Schools with their own procedure which shall prevail) and other work environments within Chatsworth Schools.

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The registered office of all companies is St Botolph Building, 138 Houndsditch, London, EC3A 7AR. Any enquiries regarding the application of this policy made to the above address.