



## **Guidance on Searching and Confiscation**

Following the publication of the [Safeguarding Practice Review](#) report on the case of child Q, the DFE reviewed and updated its guidance on [searching, screening and confiscation](#) from September 2022. The updated DFE guidance places a greater emphasis on our safeguarding duty which means that there is a need to balance:

- The need to safeguard all pupils by confiscating harmful, illegal, or disruptive items
- The safeguarding needs and wellbeing of pupils suspected of possessing these items

**The 'best interests' of the child should always be the primary consideration**

[Keeping Children Safe in Education](#) (KCSIE) sets out the statutory duty of all staff to make sure that they make decisions in the best interests of the child. This applies to decisions to search pupils and confiscate items.

We should also be vigilant about possible biases affecting the decision to search a pupil.

We should also consider that all pupils have a right to expect a reasonable level of personal privacy, under [Article 8](#) of the European Convention on Human Rights. Any 'interference' with this right by your school must be justified and proportionate.

We should be aware that a search could infringe upon a pupil's wellbeing and rights in several different ways. For example:

- Loss of privacy when clothes, bags or possessions are searched
- Loss of a sense of security, if they feel they are being monitored and searched without reason
- Impact on a pupil's dignity or reputation if they are searched or suspected of possessing prohibited items

## Treat confiscations as a safeguarding issue

Young people in possession of drugs, alcohol or weapons should be considered vulnerable and at risk of exploitation. Paragraph 20 of [KCSIE](#) highlights the need to be alert to the potential risks of children who are:

- Showing signs of being drawn in to anti-social or criminal behaviour
- In challenging family circumstances, such as drug and alcohol misuse
- Misusing drugs or alcohol themselves

A search can play a vital role in identifying pupils who may benefit from additional support in school, a referral to an outside agency or to children's social care. The DSL will be informed of any searches that we believe reveal a safeguarding risk, or where we have reasonable grounds to suspect that a pupil was in possession of a prohibited item.

### Who can carry out a search?

Common law allows any staff member to conduct a search with the pupil's permission.

A search can be carried out if:

- The pupil agrees to the search, **or**
- The authorised staff member has 'reasonable grounds' to suspect that the pupil may have a prohibited or banned item.

Under law:

- The person carrying out the search **must** be the same sex as the pupil being searched
- There **must** be another member of staff present as a witness to the search

The only exception to this is if:

- The searcher reasonably believes that there is a risk of serious harm being caused to a person if a search isn't carried out urgently **and**
- It's not reasonably practical to summon another member of staff (to carry out the search or act as a witness) within the time available

The member of staff witnessing the search must also be the same sex as the pupil being searched **if** this is reasonably practicable.

When an authorised staff member conducts a search without a witness, they should immediately report it to another member of staff, and make sure that a record is kept.

### What you can search for:

Authorised staff members can search a pupil for:

- Any items with the pupil's informed consent
- Prohibited or banned items, with or without the pupil's consent

### **Prohibited items are:**

- Knives or weapons
- Alcohol
- Illegal drugs
- Stolen items
- Tobacco and cigarette papers
- Fireworks
- Pornographic images
- Any article that the member of staff reasonably suspects has been, or is likely to be, used to:
  - Commit an offence
  - Cause personal injury (including the pupil) or damage to property

This list is set out in [The Education Act 1996](#) and paragraph 3 of the DfE's guidance on searching, screening and confiscation.

### **Carrying out a search**

#### **Before carrying out a search**

The authorised staff member should:

- Make an assessment of how urgent the search is, and consider the risk to other pupils and staff
- Explain to the pupil why they are being searched, how and where the search will happen, and give them the opportunity to ask questions about it
- Always seek the pupil's cooperation

#### **If a pupil refuses to cooperate:**

In this case, the authorised member of staff should first consider why this is, and act proportionally. It may be that the pupil:

- Is in possession of a prohibited or banned item
- Doesn't understand your instructions or what a search will involve
- Has had a previous distressing experience of being searched

#### **If the pupil still refuses to cooperate:**

- It may be appropriate to sanction them in line with the school's behaviour policy
- If the search is not needed urgently, seek advice from the Headteacher, DSL or Deputy Headteacher. During this time, the pupil should be supervised somewhere away from other pupils
- Assess whether it's necessary to use reasonable force to conduct the search. Consider whether this would prevent the pupil from harming themselves or others, damaging property or causing disorder. **Reasonable force can only be used to search for prohibited items.**

#### **Searching a pupil's clothes**

Search the pupil in an appropriate location that offers privacy from other pupils.

Authorised staff can search a pupil's pockets and require pupils to remove outer clothing, meaning clothes that are not worn directly next to the skin or over underwear. Outer clothing also includes:

- Hats
- Scarves
- Shoes or boots

Students **must not be asked** to take off any further items of clothing.

It is important that we are sensitive to whether a pupil is wearing outer clothing for religious reasons when you conduct a search. For example, a female pupil should not be asked to remove a headscarf she's wearing for religious reasons if the witness is male.

### **Searching a pupil's possessions**

Authorised staff can search desks and bags in the presence of the pupil and another member of staff (except in cases where there's a risk of harm and where it's not reasonably practicable to summon another member of staff).

### **Only police can conduct a strip search**

**A record of all searches, whether or not any items were found, will be made on My Concern.**

### **Confiscations**

Authorised staff members can confiscate any item they find that they have reasonable grounds for suspecting:

- Poses a risk to staff or pupils
- Is a prohibited or banned item
- Is evidence in relation to an offence

### **Searching and confiscating electronic devices**

Authorised staff members may examine any data or files on an electronic device that they have confiscated, if they have good reason to do so. They should reasonably suspect that the device has (or could be used to):

- Cause harm
- Undermine the safe environment of the school or disrupt teaching
- Commit an offence