



NITERE PORRO

Searching, Screening & Confiscation Policy

Review Responsibility: Assistant Headteacher – Behaviour & Attendance

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For information: What the law allows is set out in the guidance 'Searching, Screening and Confiscation: Advice for Headteachers, Governors and School Staff, January 2018.

1) Introduction & Purpose

- a) At Borden Grammar School, searching, screening and confiscation are undertaken to protect the safety and wellbeing of the school community and comply with health and safety guidance.
- b) The policy is based on statutory powers given to schools and relevant legislation.
- c) The aim is to prevent prohibited, banned or harmful objects from being used to cause risk. The behaviour policy may be applied to students who the school deems to be posing a risk to themselves, the wider school community or health and safety.

2) Scope of the Policy

- a) Applies to all staff, pupils and visitors.
- b) Connects with the Behaviour Policy, safeguarding procedures, and statutory guidance (see points 10 & 11 below).
- c) Only staff authorised by the Headteacher may carry out searches and confiscations.

3) Legal & Human Rights Framework

- a) 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 the right to expect a reasonable level of personal privacy.
- b) 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.
- c) 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 the searching powers in a lawful way.

4) Screening Pupils

- a) Schools' statutory power to make rules on pupil behaviour and their duty as an employer to manage the safety of staff, pupils and visitors enables them to impose a requirement that pupils undergo screening.
- b) Screening does not involve physical contact and is not subject to the same conditions as searching.
- c) 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.
- d) Screening can be undertaken by any member of staff.
- e) Pupils refusing screening may be denied entry due to the potential risk to the school community. This is not a suspension, and the absence may be treated as unauthorised.

5) Searching Pupils

a) Authorisation & Training of Staff

- i) Only staff authorised by the Headteacher may search pupils.
- ii) Training may be provided where needed.
- iii) Staff cannot be required to search pupils (except security staff).

b) Grounds for a Search

- i) Searches should only be carried out by a staff member who has had responsibility delegated to

them by the Headteacher, or by the Headteacher himself.

- ii) The staff member must have reasonable grounds for conducting the search (for example, but not limited to, information from others, behaviour of the pupil or CCTV footage).
- iii) Headteachers can authorise a search for **prohibited** or **banned** items without consent. Headteachers can authorise a search for **any item** with consent, provided that this consent is freely given and not under duress.
- iv) Staff will explain the consequences of refusing a search to the student, as this promotes good practice and transparency. Providing this does not constitute duress.

c) How Searches Are Conducted

- i) Student wellbeing should be prioritised during the search process.
- ii) There must be a member of staff present who is the same sex as the pupil being searched.
- iii) There must be a witness (also a staff member) and, where possible, they should be the same sex as the pupil being searched.
- iv) Where it is reasonable to believe that there is a risk of serious harm being caused to a person, or where it is not reasonably practicable to summon another member of staff, a search can be conducted by the opposite sex and/or without a witness present.
- v) Searches should be conducted in a private space wherever possible.
- vi) The power to search enables a personal search, involving removal of outer clothing and searching of pockets; but not an intimate search which only a person with more extensive powers (e.g. a police officer) can carry out.
- vii) The person conducting the search may not require the pupil to remove any clothing other than outer clothing. 'Outer clothing' means clothing that is not worn next to the skin or immediately over a garment that is being worn as underwear alongside headwear, footwear, gloves and scarves.
- viii) 'Possessions' means any goods over which the pupil has or appears to have control – this includes but is not limited to electronic devices, desks, lockers and bags.
- ix) Staff should maintain a calm, respectful environment throughout the process.
- x) Reasonable force may be used **only** when searching **without consent** for **prohibited items**.

d) Searching With Consent

- i) Staff can search a pupil for **any item** if the pupil agrees verbally or by actions under Common Law powers.
- ii) Schools are not required to have formal written consent from the pupil.
- iii) Headteachers and authorised staff can also search for any item which has been identified in the rules as an item which may be searched for (**Banned Items** - see Behaviour Policy).

e) Refusing a Search

- i) Refusal to consent to a search for a **banned item** may pose a risk to the school community. The behaviour policy will be applied to ensure the safety of the student and the school community.
- ii) Refusal to consent to a search for a **prohibited item** may pose a higher risk to the school community. Parents will be contacted to gain consent, or to attend the school to provide support. The behaviour policy will be applied to ensure the safety of the student and the school community.

f) Searching Without Consent

- i) Headteachers and authorised staff may search without consent (and using reasonable force) for **prohibited items**, including:
 - Knives or weapons
 - Alcohol
 - Illegal drugs
 - Stolen items
 - Tobacco, cigarette papers, vapes
 - Fireworks
 - Pornographic images
 - Any article or electronic device (including, but not limited to, a smartphone or similar) to which access has been reasonably requested and refused by the owner or person in

possession or control, where a staff member has reason to believe the device has been used for, or contains evidence of:

- (a) Committing an offence
- (b) Causing personal injury or harm to any person (including the pupil)
- (c) Causing damage to the property of any person (including the pupil)
- (d) Breaching the Behaviour Policy or Acceptable Use of IT Policy

6) Confiscation of Items

- a) The Law states:
 - i) A schools' general power to discipline, as circumscribed by Section 91 of the Education and Inspections Act 2006, enables a member of staff to confiscate, retain or dispose of a pupil's property as a disciplinary penalty, where reasonable to do so.
 - ii) The member of staff can use their discretion to confiscate, retain and/or destroy any item found as a result of a search so long as it is reasonable in the circumstances.
 - iii) Where any article is reasonably suspected to be an offensive weapon, it must be passed to the police.
 - iv) 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.
- b) School staff can confiscate any item seen, or found as the result of a search, that they consider harmful or detrimental to school discipline (including **banned items**). Once confiscated, these items should be:
 - i) Stored safely (e.g. in the school office)
 - ii) Given back to the child at the end of the school day, or collected by the parent, dependent on staff judgement.
- c) School staff can confiscate any **prohibited item** seen, or found as a result of a search. Once confiscated:
 - i) Items should be stored with a member of school leadership
 - ii) The item should not be returned to the student
 - iii) An assessment should be made regarding whether the item needs to be handed to another organisation (e.g. police)
 - iv) The item may be returned to the parent, dependent on staff judgement
- d) Electronic devices may be examined for evidence and, if necessary, data/files deleted (unless required by police).

7) After the Search

- a) Student wellbeing must be checked.
- b) Parents must be informed that a search has been conducted, regardless of whether any items were found.
- c) Parents must be informed of any items confiscated.
- d) The search should be logged on the safeguarding platform, including:
 - i) Reasonable grounds for the search
 - ii) Staff present
 - iii) Whether consent was gained
 - iv) Notes on the wellbeing of the student
 - v) Any items confiscated
 - vi) Details of contact to parents

8) Complaints & Appeals

- a) Complaints will be handled under the school's standard complaints procedure.
- b) There is no legal requirement to inform parents before a search.
- c) Schools are legally required to record searches carried out without consent for prohibited items. At Borden, we record all searches on our safeguarding platform to support transparency and to protect both staff and students.

9) Related Policies & Resources

- a) Behaviour Policy
- b) Acceptable Use of IT Policy
- c) Safeguarding and Child Protection Policy

10) Legislative Links

- a) The Education Act 1996 (Section 550)
- b) Education and Inspections Act 2006
- c) Education (Independent School Standards) (England) Regulations 2010
- d) The Schools (Specification and Disposal of Articles) Regulations 2012
- e) School Behaviour (Determination and Publicising of Measures in Academies) Regulations 2012
- f) Health and Safety at Work Act 1974
- g) DfE Screening and Search Guidance (S74 pg 19)
- h) Keeping Children Safe in Education (KCSIE)
- i) DfE Use of Reasonable Force in Schools
- j) DfE Behaviour in Schools – Non-statutory guidance
- k) DfE Mobile phones in schools: guidance – Non-statutory guidance
- l) Sexting in Schools and Colleges: Responding to Incidents and Safeguarding Young People – Guidance from the UK Council for Child Internet Safety (UKCIS).
- m) Information Commissioner's Office (ICO) Guidance on the Data Protection Act / UK GDPR

Appendix A - Searching, Screening & Confiscation Checklist



Pre-Search/Screening

Reasonable grounds to search (e.g. is there evidence to suggest a search is needed?)	
Search is a last resort (e.g. student has been asked to hand over any items)	
Search is for a prohibited item (e.g. weapon, drugs, stolen items, cigarettes)	
Search is for a banned item (e.g. banned under the school rules)	
Search is for material on a mobile phone which could be used to commit an offence, harm, disrupt teaching or break the school rules.	
Student consent gained for banned items/phones (not needed for prohibited items, but advised)	
Student wellbeing checked (Do they understand why they are being searched? Do they feel safe?)	
The Headteacher has delegated responsibility to you to conduct a search	
Two members of staff present (ideally one of both gender)	
Both staff members feel comfortable conducting a search	
A quiet space has been found to conduct the search, away from other students	

During the Search/Screening

Create a calm and reasonable environment	
Search is of "outer clothing" (e.g. coat, turning out pockets, shoes)	
Search is of "possessions" (e.g. bag, locker, pencil case)	
Screening with a wand metal detector if required (The Headteacher has this)	

After the Search/Screening

Check student wellbeing, inform next steps and see if there are any questions	
Ensure any items found are confiscated and kept in a safe place - see "what if" below	
Contact parents to advise a search has been completed	
Log the search on CPOMS (choose the category "search", outline who conducted the search, the wellbeing of the pupil and any items found)	

Appendix B - What if...

1. A student refuses to be searched for a **prohibited** item?

Unless the situation is such that it is not possible, the headteacher should be informed immediately to make a decision on the best course of action. Whilst the school does not need consent to search for a prohibited item and may use reasonable force, this is to be avoided unless there is no other option.

The police can be called to conduct a search.

The student should remain in the Reflection space until the search is conducted to ensure the safety of the school community. Parents should be contacted to attempt to resolve the issue.

2. A student refuses to be searched for a **banned** item or **mobile phone**?

The school needs consent for a search for a banned item. The school will follow the behaviour policy and sanction a student if there are reasonable grounds to suspect a banned item, but the student is refusing to be searched.

The student should remain in the Reflection space until the search is conducted to ensure the safety of the school community. Parents should be contacted to attempt to resolve the issue.

The exception to this rule is outlined in section (F.i.) above.

3. A prohibited item is confiscated?

Seek advice from the Headteacher and the Screening, Searching and Confiscation Policy.

4. A banned item is confiscated?

Generally, a banned item can be returned if parents come to collect it. However, refer to the Screening, Searching and Confiscation Policy if unsure.

5. Illegal/harmful/disruptive content is found on a mobile phone?

If the content breaks the law, refer to the Headteacher/DSL as soon as possible. If the content is harmful/disruptive, please refer to a member of leadership who will make a decision regarding whether to erase the data or files. It is advised to gain consent for this.

If a student refuses to delete the content, the student should remain in the Reflection space to ensure the safety of the school community. Parents should be contacted to collect the mobile phone during the school day.

6. A parent has a complaint?

Follow the normal complaints procedure.