



BORDEN GRAMMAR SCHOOL

Searching, Screening & Confiscation Policy

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Borden Grammar School

Searching, Screening & Confiscation Policy

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For information: What the law allows is set out in the guidance 'Searching, Screening and Confiscation advice for schools, September 2022.'

1. Introduction

Ensuring school staff and pupils 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 pupil and staff welfare is protected and helps schools establish an environment where everyone is safe.

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 pupils can learn.

2. The law and the school's obligations

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 rights and obligations, this means that pupils have the right to expect a reasonable level of personal privacy. However, 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.

3. Searching

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.

Headteachers and staff they authorise have a statutory power to search a pupil or their possessions where they have reasonable grounds to suspect that the pupil may have a prohibited item listed in paragraph 31 or any other item that the school rules² identify as an item which may be searched for.

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

4. Prohibited Items

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. See [Keeping children safe in education](#) and [Working together to safeguard children](#).

The list of prohibited items is:

- 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, or
 - to cause personal injury to, or damage to property of; any person (including the pupil).
- an article specified in regulations:
 - tobacco and cigarette papers; (the school behavior policy includes vapes)
 - fireworks; and
 - pornographic images.

The Headteacher and authorised staff can also search for any item banned by the school rules or in the school behaviour policy which has been identified in the rules as an item which may be searched for.

School staff can seize any prohibited item found as a result of a search. They can also seize any item, they consider harmful or detrimental to school discipline.

5. The role of the headteacher and designated safeguarding lead

Only the headteacher, or a member of staff authorised by the headteacher, 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.

The designated safeguarding lead (or deputy) must 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 in paragraph 3. The staff member should also involve the designated safeguarding lead (or deputy) without delay if they believe that a search has revealed a safeguarding risk.

If the designated safeguarding lead (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 designated safeguarding lead (or deputy) should then consider the circumstances of the pupil who has been searched to assess the incident against potential wider safeguarding concerns.

6. Before Searching

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 pupils and staff. School staff may use CCTV footage to decide whether to conduct a search for an item.

When exercising these powers, consideration will be given to 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.

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

7. Searching with consent

As covered above, schools are not required to have formal written consent from the pupil for this sort of search. It is enough for the teacher to ask the pupil to turn out his or her pockets or if the teacher can look in the pupil's bag or locker and for the pupil to agree.

However, the authorised 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 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.

A pupil refusing to co-operate with such a search raises the same kind of issues as where a student refuses to follow a reasonable instruction from a member of staff – in such circumstances, schools can apply an appropriate disciplinary sanction in line with the school's behaviour policy.

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, designated safeguarding lead (or deputy) or pastoral member of staff who may have more information about the pupil. During this time the pupil should be supervised and kept away from other pupils.

8. Searching without consent

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 in paragraph 3, but not to search for items which are identified only in the school rules.

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 pupil 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 pupil themselves.

9. During a search

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

Who? The law states the member of staff conducting the search must be of the same sex as the pupil 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 pupil 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 pupil **or** it is not reasonably practicable for the search to be carried out in the presence of another member of staff.¹⁰

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.

10. The extent of the search

A member of staff may search a pupil's outer clothing, pockets, possessions, desks or lockers. 'Possessions' means any goods over which the pupil has or appears to have control - this includes desks, lockers, bags and electronic devices (see section on electronic devices).

The person conducting the search must not require the pupil 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.

A pupil's possessions can only be searched in the presence of the pupil 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.

A metal detector may be used to assist with the search.

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

11. Strip Searching and police involvement

A strip search is a search involving the removal of more than outer clothing (see paragraph 29). Strip searches on school premises can only be carried out by police officers under the [Police and Criminal Evidence Act 1984 \(PACE\) Code A](#) and in accordance with the [Police and Criminal Evidence Act 1984 \(PACE\) Code C](#).¹² While the decision to undertake the strip search itself and its conduct are police matters, school staff retain a duty of care to the pupil(s) involved and should advocate for pupil wellbeing at all times.

Before calling police into school, the headteacher and/or designated safeguarding lead will assess and balance the risk of a potential strip search on the pupil's mental and physical wellbeing and the risk of not recovering the suspected item. It will be considered whether introducing the potential for a strip search through police involvement is absolutely necessary, and other appropriate, less invasive approaches will have been exhausted. Once the police are on school premises, the decision on whether to conduct a strip search lies solely with them, and the role of the school is to advocate for the safety and wellbeing of the pupil(s) involved.

Unless there is an immediate risk of harm and where reasonably possible, staff will inform a parent of the pupil suspected of concealing an item in advance of the search, even if the parent is not acting as the appropriate adult.

Parents should always be informed by a staff member once a strip search has taken place. Records of strip searches that have been conducted on school premises will be kept and monitored for any trends that emerge.

12. The process the police must follow during a strip search

Except in cases of urgency where there is risk of serious harm to the pupil or others, whenever a strip search involves exposure of intimate body parts there must be at least two people present other than the pupil, one of which must be the appropriate adult. If the pupil's parent would like to be the appropriate adult, the school will facilitate this where possible.

Police officers carrying out the search must be of the same sex as the pupil being searched. An appropriate adult not of the same sex as the pupil being searched may be present if specifically requested by the pupil. Otherwise, no-one of a different sex to the pupil being searched is permitted to be present, and the search must not be carried out in a location where the pupil could be seen by anyone else.

Except in urgent cases as above, a search of a pupil may take place without an appropriate adult only if the pupil explicitly states in the presence of an appropriate adult that they do not want an appropriate adult to be present during the search and the appropriate adult agrees. A record should be made of the pupil's decision and signed by the appropriate adult. The presence of more than two people, other than an appropriate adult, shall be permitted only in the most exceptional circumstances.

Strip searching can be highly distressing for the pupil involved, as well as for staff and other pupils affected, especially if undertaken on school premises. PACE Code C states that a strip search may take place only if it is considered necessary to remove an item related to a criminal offence, and the officer reasonably considers the pupil might have concealed such an item. Strip searches should not be routinely carried out if there is no reason to consider that such items are concealed.

13. After-care following a strip search

Pupils will be given appropriate support, irrespective of whether the suspected item is found. If an item is found, this may be a police matter, but should always be accompanied by a safeguarding process handled by the school which gives attention to the pupil's wellbeing and involves relevant staff, such as the designated safeguarding lead (or deputy).

Safeguarding should also be at the centre of support following a strip search in which the item is not found, both in the sense of supporting the pupil to deal with the experience of being searched, and regarding wider issues that may have informed the decision to conduct a strip search in the first place. In both cases, pupils should feel that they have an opportunity to express their views regarding the strip search and the events surrounding it.

14. After a 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, school staff should follow the school's child protection policy and speak to the designated safeguarding lead (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 on confiscation.

If a pupil is found to be in possession of a prohibited item, then the staff member should alert the designated safeguarding lead (or deputy) and/or the headteacher, then the pupil should be sanctioned in line with school policies.

15. Recording searches

Any search by a member of staff should be recorded in the school's safeguarding reporting system, including whether or not an item is found. This will allow the designated safeguarding lead (or deputy) to identify possible risks and initiate a safeguarding response if required.

Schools are encouraged to include in the record of each search:

- 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 regularly analyse its record of searches to consider whether adequate support has been given to those searched, whether the searches are effective and whether they disproportionately impact on any particular groups of pupils by analysing the recorded data.

16. Informing parents

Borden Grammar School will always aim to build and maintain positive relationships with parents. Parents should always be informed of any search that has taken place, and the outcome of the search as soon as is practicable. A member of staff should inform the parents of what, if anything, has been confiscated and the resulting action the school has taken, including any sanctions applied.

Any complaints about searching, screening or confiscation should be dealt with through the normal school complaints procedure.

17. Screening

Screening can help provide reassurance to pupils, staff and parents that the school is taking measures to create a calm, safe and supportive environment. Schools' statutory power to make rules on pupil behaviour and their duties as employers in relation to the safety of staff, pupils and visitors enables them to impose a requirement that pupils undergo screening.

Screening is the use of a walk-through or hand-held metal detector (arch or wand) to scan all pupils for weapons before they enter the school premises. Hand held metal detectors (wand) may be used in assisting in a search as referenced earlier in this policy, but this is not the same as screening.

Borden Grammar School does not currently routinely screen students. If, at any time, a screening arrangement is deemed necessary, advice will be sought from the local police and pupils and parents will be informed in advance to explain what the screening will involve and why it will be introduced.

If a pupil refuses to be screened, the member of staff should consider why the pupil is not co-operating, and make an assessment of whether it is necessary to carry out a search. If the pupil refuses to be searched then sanctions may apply as referenced in the section on searching.

18. Confiscation

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 pupils;
- is prohibited, or identified in the school rules for which a search can be made; or
- is evidence in relation to an offence.

Schools' 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.

19. Disposal of prohibited or illegal items

The headteacher and designated safeguarding lead must be informed as soon as any controlled or stolen items are found. Controlled drugs (or those that may be controlled), harmful substances, stolen items or evidence of a suspected offence must be delivered to the police as soon as possible unless there is a good reason not to do so. The headteacher will decide on whether there is any reason to dispose of items or return them to the owner in the case of stolen items. In making the decision of whether to dispose of an item, the headteacher will consider,

- the value of the item
- 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.

Where a person conducting a search finds alcohol, tobacco, cigarette papers or fireworks, they may retain or dispose of them as they think appropriate but should not return them to the pupil.

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.

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 take into account all relevant circumstances and use their professional judgement to determine whether they can safely dispose of the seized item, taking into account;

- the value of the item;
- whether it is appropriate to return the item to the pupil or parent; and

- whether the item is likely to continue to disrupt learning or the calm, safe and supportive environment of the school.

20. 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 designated safeguarding lead (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.

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 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 pupil and/or the parent refuses to delete the data or files themselves.

Other relevant departmental advice and statutory guidance

- [Behaviour in Schools guidance](#)
- [Equality Act 2010 and schools guidance](#)
- [Keeping children safe in education guidance](#)
- [Use of reasonable force in schools guidance](#)
- [Working together to safeguard children guidance](#)
- [DfE and ACPO drug advice for schools](#)
- [Sharing nudes and semi-nudes: advice for education settings working with children and young people](#)
- [Police and Criminal Evidence Act 1984 \(PACE\) codes of practice](#)

21. Legislative links

- The Education Act 1996
- Education and Inspections Act 2006
- Education (Independent School Standards) (England) Regulations 2010
- The Schools (Specification and Disposal of Articles) Regulations 2012
- School Behaviour (Determination and Publicising of Measures in Academies) Regulations 2012
- Health and Safety at Work etc Act 1974