



CLAYESMORE

## SEARCH AND CONFISCATION POLICY

Responsibility: Deputy Head Pastoral

Review date: April

Review period: Annual

Last reviewed: April 2024

### BACKGROUND

1. The guidance in the following document has informed this policy: [Searching, Screening and Confiscation July 2022](#)
2. At Clayesmore School, trust between staff and pupils underpins our daily life. Therefore, we would hope that the need to conduct a search on whatever basis would be rare.
3. As a boarding school, Clayesmore has obligations under the European Convention of Human Rights, Article 8, which states that pupils have a right to expect a reasonable level of personal privacy. This right is not absolute, but any interference with this right by the school must be justified and proportionate. 'The powers to search in the Education Act 1996 are compatible with Article 8.' Screening, Searching and Confiscation - Advice for Headteachers, School Staff and Governing Bodies. Department for Education July 2022. The guidance has been updated to take into account police searches undertaken under the Police and Criminal Evidence Act 1984 (PACE) Code C.

### SEARCHING

4. Occasionally, in order to maintain the safety of the school community, it may be necessary to search a pupil or their possessions, for any items that have been, or could be, used to cause harm or to break the law, and for items banned by school rules.
5. The Head and staff authorised by her have a statutory power to search pupils or their possessions without consent where they suspect a pupil has certain prohibited items or where the pupil or other pupils are felt to be in danger of harm.
6. Prohibited items that can be searched for under this power include weapons, alcohol, fireworks, illegal drugs, tobacco and cigarette papers, pornographic images, stolen items, any item that the member of staff reasonably suspects has been or is likely to be used to commit an offence or any item that is likely to be used to cause personal injury to, or damage the property of, any person (including the pupil). In addition, certain articles specified in the school rules, for example e-cigarettes and vaping materials, may also be searched for.
7. School staff can confiscate any banned or prohibited items found as a result of a search or which

may be harmful or detrimental to the safety and well-being of the pupils. Staff may also confiscate any item, however found, which they consider harmful or detrimental to school discipline.

8. When exercising their powers, schools must consider 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.
9. The Head should 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 pupils and staff, with support from the designated safeguarding lead.

### **SEARCHING WITH CONSENT**

10. Under common law, school staff can 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.
11. It is not necessary to have written consent from the pupil for this sort of search. It is enough for the teacher to ask the pupil to turn out pockets or to ask to look in the pupil's bag, locker or boarding storage areas and for the pupil to agree.
12. It is clear in the school's behaviour and other policies, the calendar and in the Acceptable Use of ICT policy which items are banned from school.
13. School staff must inform the Deputy Head Pastoral every time they conduct a search, but only **before** a search if it is without consent.
14. If a pupil refuses to cooperate with such a search, this becomes a disciplinary matter and should be referred to the houseparent and the Deputy Head Pastoral.

### **SEARCHING WITHOUT CONSENT**

15. Before any search without consent, staff must consult the Senior Deputy Head or the Deputy Head Pastoral.
16. A search without consent will only be undertaken if school staff have reasonable grounds for suspecting that a pupil may have a prohibited or banned item in his or her possession. The Head, and deputies must decide in each case what reasonable grounds for suspicion are.
17. When there are reasonable grounds for suspecting that a pupil is in possession of a prohibited or banned item a search may be conducted by the Head, deputies or housestaff even if a pupil does not consent to the search.

### **PROTOCOLS FOR CONDUCTING A SEARCH**

18. The law states that when a pupil is being searched, the member of staff conducting the search must be of the same sex as the pupil being searched.
19. There must be another member of staff present as a witness to the search. Exceptionally, a member of staff can search a pupil of the opposite sex and/or without a witness present 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 the 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.

20. When a member of staff conducts a search without a witness they should immediately report this to the Deputy Head Pastoral, who will ensure a record of the search is kept.
21. If asked to help conduct a search, a member of staff may refuse and a replacement will be found.

## **THE EXTENT OF THE SEARCH**

22. The person conducting the search must not require the pupil to remove any clothing other than outer clothing – meaning clothing not worn next to the skin or immediately over a garment being worn as underwear.
23. ‘Possessions’ means any goods over which the pupil has or appears to have control – this includes desks, boarding furniture, lockers and bags. A pupil’s possessions should always be searched in the presence of the pupil and another member of staff, unless there is risk that serious harm will be caused to a person if the search is not conducted immediately and where it is not reasonably practical to summon another member of staff.

## **RECORDING SEARCHES**

24. Any search by a member of staff for a prohibited item and all searches conducted by police officers should be recorded in My Concern, 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. The Head may also decide that all searches for items banned by the school rules should be recorded

## **INFORMING PARENTS**

25. We are keen to reinforce the whole-school approach by building and maintaining positive relationships with parents. Parents should always be informed of any search for a prohibited item listed in paragraph 6 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.
26. We will usually also inform parents of a search for an item banned by the school policy, for example e-cigarettes or vaping devices.