

Searching, Screening and Confiscation Policy

1. Introduction

Box Hill School is committed to safeguarding and promoting the welfare of the members of its community. Using searching, screening and confiscation powers appropriately is an important way to ensure that all in the School community are protected and that our safe environment is maintained. Hence, to fulfil the School's duty of care there may be occasions when it becomes necessary to search the person, the belongings or the room of a pupil.

This policy sets out the circumstances in which such searches can be carried out and the procedure to be followed, in accordance with the Education and Inspections Act 2006 and Department for Education *Searching, Screening and Confiscation: Advice for schools* (July 2022).

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. The powers to search in the Education Act 1996 are compatible with Article 8.

The Headmaster oversees 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.

The people in the School who are authorised to carry out any such search are members of the School's Senior Leadership and Management Teams, the House Parent, Assistant House Parent, Head of Year and Deputy Head of Year of the pupil(s) concerned. The Headmaster may authorise others to carry out such a search. This policy would apply on authorised School trips where School rules are in force; for example, the trip leader is authorised to undertake searches for the duration of that trip. Only those who are authorised by the Headmaster may normally carry out a search.

It should be noted that School staff can search a pupil for any item if the pupil agrees. The Headmaster and staff authorised by him have a statutory power to search pupils or their possessions, without consent, where they have reasonable grounds for suspecting that the pupil may have a prohibited item.

A search can demonstrate innocence as much as guilt. This should be made clear to the pupil.

2. 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.

The Headmaster and those staff that he has authorised (as stated above) 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 as listed below or any other item that the school rules identify as an item which may be searched for.

'Reasonable Grounds' may be decided in each case by the teacher on the scene. This might be suspicious behaviour, a report from another pupil, overhearing pupils talking or noticing a pupil behaving in a way that causes the teacher to suspect that the pupil is concealing a prohibited item. Staff may view CCTV footage in order to make a decision as to whether to conduct a search for an item.

House Searches may be called by the House Parent or Assistant House Parent in order to establish the whereabouts of lost or stolen items. This should be called as a last resort, should be conducted with the pupil's permission (where possible) and should have been discussed with the Senior Team member on duty.

School staff are able to search regardless of whether the pupil is found after the search to have that item. This includes circumstances where it is suspected that a pupil has items such as illegal drugs or stolen property which are later found not to be illegal or stolen.

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; ○ fireworks; and ○ pornographic images.

The School is also able to search for additional items, including e-cigarettes, vapes and associated paraphernalia as listed in the School Rules.

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.

The School recognises that being in possession of a prohibited item 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. Staff will always involve the Designated Safeguarding Lead (DSL) or a deputy if they believe that a search has revealed a safeguarding risk. The DSL will make an immediate referral to Children's Social Care if evidence is found which indicates that a pupil is at risk of harm. The DSL will then consider the circumstances of the pupil who has been searched to assess the incident against potential wider safeguarding concerns.

The School will always consider the age and needs of pupils being searched or screened. This includes taking account of individual needs and taking account of Special Educational Needs (SEN) and disabilities. The School will consider the reasonable adjustments that may be required.

The School staff will access CCTV footage where appropriate to assist in the decision as to whether to conduct a search for an item.

2.1 Before a search

A search can be considered if the Headmaster or authorised member of staff has reasonable grounds for suspecting that the pupil is in possession of a prohibited item or any item identified in the School Rules for which a search can be made, or if the pupil has agreed. The authorised member of staff will make an assessment of how urgent the need for a search is and will consider the risk to other pupils and staff.

Before any search takes place, the member of staff conducting the search will 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. The co-operation of the pupil will always be sought before conducting a search. If the pupil is not willing to co-operate with the search, the member of staff will 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.

If a pupil continues to refuse to co-operate, the member of staff may sanction the pupil in line with the School's Behaviour Policy, consistently and fairly.

If a search is still considered to be necessary, but is not required urgently, advice will be sought from the Headmaster, DSL and member of staff who may have more information about the pupil (for example House Parent and/or Head of Year). During this time the pupil will be supervised and kept away from other pupils.

If the pupil still refuses to co-operate, the member of staff will 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 (but not to search for items which are identified only in the School Rules). The decision to use reasonable force will be made on a case-by-case basis. The member of staff will consider whether conducting the search will prevent the pupil harming themselves or others, damaging property or from causing disorder. The use of reasonable force will differ depending on whether the member of staff is searching possessions or the pupil themselves.

2.2 During a Search Where

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

This policy on searches of pupils and their belongings applies at all times, irrespective of whether the pupil is on the School premises or on a non-residential, or residential, trip, outside the School. There may therefore be a need to carry out a search on a trip or an away sports fixture. If this occasion arises, the member of staff in charge of the trip should make an effort to contact the Deputy Head Pastoral or Deputy Head Academic to obtain authorisation. If this proves impossible, and the circumstances are such as to make a search necessary, the member of staff in charge is empowered to carry out such a search, following all the relevant procedures. A second member of staff must act as a witness. Full notes must be kept and an incident report submitted on their return to the School.

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. However, 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.

In the exceptional circumstances when it is necessary to conduct a search of a pupil of the opposite sex or in the absence of a witness, the member of staff conducting the search should bear in mind that a pupil's expectation of privacy increases, as they get older.

Incident reports must be submitted following any search, listing all the main details. Affected pupils' parents should always be contacted after any search, regardless of the outcome.

The extent of the search

A pupil's outer clothing, pockets, possessions, desks or lockers may be searched.

Searching a pupil's person

If a pupil is suspected of carrying a prohibited item he/she should be asked by an authorised member of staff, in the presence of a second adult witness, to turn out his/her pockets.

Staff should not touch pupils but are allowed to ask them to remove any outer clothing in order to conduct the search. Outer clothing is defined as 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. Staff must not require the pupil to remove any clothing other than outer clothing. Staff must be sensitive as to whether such outer clothing is worn for religious reasons when conducting a search.

In the case of initial refusal to co-operate, a member of the Senior Leadership Team (who would then lead the investigation) should contact parents/guardians, declare and justify suspicions, and ask them to persuade the pupil to submit to the request.

In the case of continuing refusal to co-operate, and if appropriate, the pupil will be sanctioned. The sanction is most likely to be a temporary exclusion (suspension). The parents/guardians of the pupil will be asked to attend a meeting with a member of the Senior Leadership Team. If appropriate, for example, in the case of items of considerable value, the parents and pupil should be advised that the pupil and any personal belongings under suspicion of containing incriminating items might be removed to the Police Station.

In the case of continuing refusal to co-operate, a member of Senior Leadership Team might either take the pupil to the Police, accompanied by parents, or send the pupil home, suspended (temporary exclusion) pending further investigations.

Whatever the pupil's response, staff should not use excessive force (reasonable force may be used for the prohibited items listed above). The power to search without consent enables a personal search, involving removal of outer clothing and searching of pockets; but not an intimate search going further than that, which only a Police Officer can do.

Searches of a pupil's possessions

Possessions includes any goods over which the pupil has or appears to have control - this includes desks, lockers and bags. In a boarding House this may include locked tuck boxes, cupboards, wardrobes etc.

A member of staff is able to search lockers and desks or other personal spaces at School for any item provided the pupil agrees. If the pupil withdraws their agreement to search, a search may be conducted both for the prohibited items listed above and any items identified in the School Rules for which a search can be made. A metal detector can be used to assist with the search.

Forcible entry into locked school property (such as a pupil's locker or desk) is only justified in extreme circumstances and would also need the authorisation of the Headmaster or, if the Headmaster is absent from School, another member of the Senior Leadership Team.

If the pupil objects (which he/she has the right to do) staff should inform the Deputy Head Pastoral or Deputy Head Academic. 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.

At Box Hill School any search of a pupil's locker/room in House should be carried out with both the pupil and the House Parent/Assistant House Parent present and another appropriate member of staff acting as witness. In addition, the Deputy Head Pastoral or Deputy Head Academic must have been informed in advance.

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.

If there is suspicion about the contents of items of post that have been received by a pupil, the pupil will be asked to open the post in the presence of their House Parent/Assistant House Parent.

House Parents/Assistant House Parents at Box Hill School may search pupils' belongings and personal areas (e.g. lockers) if they have reasonable grounds to do so. House Parents must observe the following guidelines:

- 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.
- 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.
- The extent of the search should also be proportionate to likelihood of the item being found. It is an invasion of privacy to search an entire House without good cause (e.g. for a very valuable or dangerous item).

For searches involving a low value item it is often more appropriate to ask pupils to search their own property to see if the item has been misplaced.

The School reserves the right, where there is reasonable suspicion of a disciplinary offence, to inspect and monitor the use of computers, mobile phones and other electronic devices and may confiscate these if they have been used inappropriately.

In the case of initial refusal to co-operate, a member of the Senior Leadership Team (who would then lead the investigation) should contact parents/guardians, declare and justify suspicions, and ask them to persuade the pupil to submit to the request.

In the case of continuing refusal to co-operate, and if appropriate, the pupil will be suspended (temporary exclusion). The parents/guardians of the pupil will be asked to attend a meeting. If appropriate, for example, in the case of items of considerable value, the parents and pupil should be advised that the pupil and any personal belongings under suspicion of containing incriminating items might be removed to the Police Station.

Strip searches

The power to search does not allow members of staff to conduct a strip search. A strip search is a search involving the removal of more than outer clothing. Strip searches can only be carried out by Police Officers under the Police and Criminal Evidence Act (PACE) 1984. The School will consider whether a strip search through Police involvement is absolutely necessary only once less invasive approaches have been exhausted. The impact of a potential strip search on the pupil's mental and physical wellbeing and the risk of not recovering the suspected item will both be considered. The parents of the pupil will be contacted prior to such a search unless there is an immediate risk of harm. If a strip search is deemed necessary the School will follow the process outlined in *Searching, Screening and*

Confiscation: Advice for schools (July 2022) Department for Education. Appropriate support will always be provided for a pupil throughout, and after, this process.

2.3 After a Search

Whether or not any items have been found as a result of any search, the School will 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.

If any prohibited items are found during the search School staff will follow the guidance set out below regarding confiscation. The pupil should expect to be sanctioned in line with the School's Behaviour Policy to ensure consistency of approach.

If an illegal item is found as a result of the search (e.g. drugs, a knife, a firearm), it should be handed to the Headmaster, Deputy Head Pastoral or Deputy Head Academic, who will take the appropriate next steps including contacting the Police.

Proper records of a search will be kept. The relevant information recorded will include; the date, time and location of the search; pupil name; 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 periodically review whether searches are being conducted disproportionately on any particular groups of pupils and whether any associated actions are therefore required.

2.4 Informing Parents

Parents will always be informed of any search for a prohibited item or an item banned by School policy, that has taken place, and the outcome of the search as soon as is practicable. A member of staff will inform the parents of what, if anything, has been confiscated and the resulting action the School has taken, including any sanctions applied.

The normal School complaints procedure should be followed if parents wish to complain.

2.5 Victimisation

Great care must be taken to avoid persistent targeting of individuals. All staff must ensure that there are very good reasons for limiting their search to certain individuals as targeting could give rise to an allegation of bullying or victimisation.

However, it is not necessary to search the belongings of every pupil in for example, a class or House each time that an item goes missing or there is a suspicion of, for example, drugs use. Indeed, the extent of the search must be proportionate to the value of the lost item or the danger involved.

3. Screening

The School has statutory power which would enable a requirement that pupils undergo screening. Whilst Box Hill School does not currently have the facility via a walk-through or hand-held metal detector (arch or wand) to screen pupils, the School has a legal right to purchase or rent screening tools and use them to uphold the safety of staff, pupils and visitors.

Before the installation or use of screening equipment the School would consult with the Police as regards the appropriateness of such devices. Pupils and parents would be informed in advance of any screening arrangement

to explain what the screening will involve and why it is to be introduced. Where a pupil has SEND needs the School will consider whether any reasonable adjustments will be required.

The School can require pupils to undergo screening even if they do not suspect them of having a weapon and without the consent of the pupils. 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 a pupil refuses to be screened, the School may refuse to have the pupil on the premises or, if the pupil is screened on a trip as part of a security check and found to be bearing an item deemed inappropriate, the School has the right to immediately organise the pupil's removal from the trip/excursion and returned to parents or guardians until the School is satisfied that the other pupils and staff are safe.

If a pupil fails to comply, Box Hill School can refuse the pupil's return to the School until the School is satisfied that other pupils and staff are safe and appropriate sanctions have been made. In these circumstances, the School has not excluded the pupil; their absence should be treated as unauthorised.

Screening can only be authorised by the Headmaster, Deputy Head Pastoral, Deputy Head Academic, or a trip leader unless the screening is mandatory (security check on a trip or excursion).

Screening, without physical contact, is not subject to the same conditions as apply to the powers to search without consent.

4. Confiscation

4.1 Items found as a result of a search

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 (see paragraphs 2-3); or
- is evidence in relation to an offence.

4.2 Prohibited or illegal items

Any controlled drugs found will be delivered to the Police unless there is a good reason not to do so. In these cases, the School will safely dispose of the drugs. The School will take into account all relevant circumstances and use professional judgement to determine whether the controlled substance can be safely disposed of. Other substances which are not believed to be controlled may also be delivered to the Police, or disposed of in a safe manner, if it is believed they could be harmful.

Where a person conducting a search finds items such as alcohol, tobacco, cigarette papers or fireworks, they may be retained or disposed as the School thinks appropriate. They will not be returned to the pupil.

If a member of staff finds a pornographic image, the image may be disposed of unless there are 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.

Where stolen items are found, these must be delivered to the Police as soon as reasonably practicable. However, if there is good reason to do so, the School may also return the item to the owner, or retain or dispose of it if returning them to their owner is not practicable. In determining whether there is a good reason to return the stolen item to its owner or retain or dispose of the item, the School will take into account all relevant circumstances and use professional judgement to determine whether the seized article can be safely disposed of. In taking into account the relevant circumstances, the following will be considered:

- the value of the item - it would not be reasonable or desirable to involve the Police in dealing with low value items;
- 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.

Any weapons or items which are evidence of a suspected offence must be passed to the Police as soon as possible. Items that have been (or are likely to be) used to commit an offence or to cause personal injury or damage to property should be delivered to the Police as soon as reasonably practicable, returned to the owner, retained or disposed of. In deciding what to do with such an item, the School will take into account all relevant circumstances and use professional judgement to determine the next steps. As part of this, it will be considered whether it is safe to dispose of the item; and whether and when it is safe to return the item.

4.3 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, the School will first consider the appropriate safeguarding response if images, data or files are found on an electronic device that are likely to put a person at risk.

Staff may examine any data or files 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 DSL or deputies. Such concerns can be especially complicated and hence, the School will follow the principles as set out in Keeping Children Safe in Education.

If a member of staff finds any image, data or file that is suspected may constitute a specified offence, then they will be delivered to the Police as soon as is reasonably practicable. In exceptional circumstances the School 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.

4.4 Confiscation as a disciplinary penalty

Under Section 91 of 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.

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.

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

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 and the safety of staff and students. In particular, members of staff may judge that an item of property needs to be confiscated on grounds of health and safety or where there has been a clear breach of School rules.

Any confiscation of pupil property should be temporary or it might fall under the Theft Act 1968 which makes it a crime to confiscate property with the intention of permanently depriving the owner of it. For this reason, property should either be i) returned to the pupil (e.g. at the end of the day) if appropriate, ii) handed to the parents, iii) handed to a member of the Senior Leadership Team for review (in cases of uncertainty or if there is cause to believe the items or substances are illegal etc).

With this in mind, 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 Deputy Head Pastoral or Deputy Head Academic.
- The member of staff should ask the pupil to hand over the item concerned and explain to him/her why it is being confiscated. The member of staff should also explain that the item will be handed to the pupil's Head of Year/House Parent.
- The member of staff should personally hand the item to the appropriate Head of Year/House Parent at the earliest possible opportunity and explain the background to the confiscation. Where this is not possible, the item should be handed to the Deputy Head Pastoral or Deputy Head Academic.
- The Head of Year/House Parent should log the confiscation and ensure the item is held securely until it is returned to the owner.
- 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. if cigarettes have been confiscated); in these circumstances, contact should be made by Head of Year/House Parent with the parents as soon as possible after the confiscation. If in doubt about the period of confiscation, the House Parent should consult the Deputy Head Pastoral or Deputy Head Academic.

Cory Lowde
Headmaster

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