



SEARCHING AND CONFISCATION POLICY 2022-2023

This document which applies to the whole School, inclusive of boarding, is publicly available on the School website and upon request a copy (which can be made available in large print or other accessible format if required) may be obtained from the School office.

Scope: All who work, volunteer or supply services to our School have an equal responsibility to understand and implement this policy and its procedures both within and outside of normal School hours, including activities away from School. All new employees and volunteers are required to state that they have read, understood and will abide by this policy and its procedural documents and confirm this by signing the Policies Register.

Legal Status: This Policy complies with the following documents:

- Complies with The Education (Independent School Standards) (England) Regulations currently in force
- [Searching, Screening and Confiscation \(DfE, currently in force\)](#)
- [Keeping Children Safe in Education \(DfE, currently in force\)](#)
- Coroners and Justice Act 2009
- Criminal Justice and Immigration Act 2008
- Health and Safety at Work etc. Act 1974
- Section 550ZA(3) of The Education Act 1996
- The Education and Inspections Act 2006
- Regulation 3 of the Schools (Specification and Disposal of Articles) Regulations 2012

Monitoring and Review: These arrangements are subject to continuous monitoring, refinement, and audit by the Head, who will undertake a full annual review, inclusive of its implementation and the efficiency with which the related duties have been implemented. This review will be formally documented in writing. Any deficiencies or weaknesses recognised in arrangements or procedures will be remedied immediately and without delay. All staff will be informed of the updated/reviewed arrangements and it will be made available to them in writing or electronically.

Signed:

Reviewed: September 2022

Next Review: September 2023

Dr James Whitehead
Head

Mr Robert Parkinson
Chair of Governors

Introduction:

Ensuring staff and students feel safe and secure is vital to establishing a calm and supportive environment within our school, which is conducive to learning. Using searching, screening and confiscation powers appropriately is an important way we can ensure student and staff welfare is protected and help establish an environment where everyone is safe. Keeping Children Safe in Education (currently in force) makes it clear that all school staff have a responsibility to provide a safe environment in which students can learn.

Before screening or conducting a search of a student, Woldingham School will consider our obligations under the European Convention on Human Rights. Under Article 8, students have a right to respect for their private life. In the context of these rights and obligations, this means that students have the right to expect a reasonable level of personal privacy. The right under Article 8 is not absolute; it can be interfered with and any interference with this right by the school (or any public body) will be justified and proportionate. The powers to search in the Education Act 1996 are compatible with Article 8. Where the school exercises those powers lawfully, we will be able to demonstrate that the school has acted in accordance with Article 8.

Woldingham School is committed to safeguarding and promoting the welfare of children and young people and expects all staff and volunteers to share this commitment. It is our aim that all children fulfil their potential

Searching: Searching can play a critical role in ensuring that Woldingham School is a safe environment for all students and staff. It is a vital measure to safeguard and promote staff and student welfare, and to maintain high standards of behaviour through which students can learn and thrive. The Head and staff they authorise have a statutory power to search a student or their possessions where they have reasonable grounds to suspect that the student may have a prohibited item listed below or any other item that the school rules identify as an item which may be searched for. The following are "prohibited items" under Section 550ZA(3) of the Education Act 1996 and Regulation 3 of the Schools (Specification and Disposal of Articles) Regulation 2012:

- 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 student).
- tobacco and cigarette papers (excluding e-cigarettes);
- fireworks; and
- pornographic images.

Under common law, school staff have the power to search a student for **any** item if the student agrees. The member of staff should ensure the student 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 – especially knives, weapons, illegal drugs or stolen items – may mean that the student 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 students who may benefit from early help or a referral to the local authority children's social care services.

The school's behaviour policy outlines any additional banned items for which a search can be made under the school rules. Students must not have these items in their possession on School premises or at any time when they are in the lawful charge and control of the School (for example on an educational visit). This includes the list of prohibited items and may include other items which the Head has decided are detrimental to maintaining high standards of behaviour and a safe environment.

When exercising any searching powers, the school will consider the age and needs of students being searched or screened. This includes the individual needs or learning difficulties of students with Special Educational Needs (SEN) and will make reasonable adjustments that may be required where a student has a disability. School staff may consider using CCTV footage to decide whether to conduct a search for an item.

The role of the Head, the Designated Safeguarding Lead and authorised members of staff: Only the Head, or a member of staff authorised by the Head, can carry out a search. The Head can authorise individual members of staff to search for specific items, or all items set out in the school's behaviour policy. For example, a member of staff may be authorised to search for stolen property and alcohol but not for weapons or drugs. The Head 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 students and staff with support from the Designated Safeguarding Lead (DSL) (and Deputy DSL).

The Head will ensure that a sufficient number of staff are appropriately trained in how to lawfully and safely search a student who is not co-operating, so that these trained staff can support and advise other members of staff if this situation arises. However, it is vital that all staff understand their rights and the rights of the student who is being searched.

The DSL (or deputy) should be informed of any searching incidents where the member of staff had reasonable grounds to suspect a student was in possession of a prohibited item listed above. The staff member should also involve the DSL without delay if they believe that a search has revealed a safeguarding risk. If the DSL finds evidence that any child is at risk of harm,

they should make a referral to children's social care services immediately. The DSL should then consider the circumstances of the student who has been searched to assess the incident against potential wider safeguarding concerns.

Before Searching: A search can be considered if the member of staff has reasonable grounds for suspecting that the student 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 student has agreed. 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 students and staff. Before any search takes place, the member of staff conducting the search should explain to the student 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 authorised member of staff should always seek the co-operation of the student before conducting a search. If the student 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.

If a student continues to refuse to co-operate, the member of staff may sanction the student in line with the school's behaviour policy, ensuring that they are responding to misbehaviour consistently and fairly. If the member of staff still considers a search to be necessary, but is not required urgently, they should seek the advice of the Head, DSL or the pastoral lead, who may have more information about the student. During this time the student should be supervised and kept away from other students.

In the rare instance that a student 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 above, but not to search for items which are identified only in our 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 student 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 student themselves.

During a search:

Where

An appropriate location for the search should be found. Where possible, this should be away from other students. The search must only take place on the school premises or where the member of staff has lawful control or charge of the student, for example on a school trip.

Who

The member of staff conducting the search must be of the same sex as the student 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 student 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 student or it is not reasonably practicable for the search to be carried out in the presence of another member of staff.

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.

The extent of the search

A member of staff may search a student's outer clothing, pockets, possessions, desks or lockers (Including their boarding accommodation as appropriate). The person conducting the search must not require the student 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 (being sensitive to whether such outer clothing is worn for religious reasons).

'Possessions' means any goods over which the student has or appears to have control - this includes desks, lockers and bags. A member of staff is able to search lockers and desks or other personal spaces at the school for any item provided the student agrees. The School makes it a condition of having the locker or space that the student agrees to have these searched if deemed necessary. If the student withdraws their agreement to search, a search may be conducted both for the prohibited items listed in and any items identified in the school rules for which a search can be made.

A student's possessions can only be searched in the presence of the student 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. The member of staff may use a metal detector to assist with the search. The member of staff's power to search outlined above **does not** enable them to conduct a strip search.

Strip Searching: A strip search is a search involving the removal of more than outer clothing. 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. While the decision to undertake the strip search itself and its conduct are police matters, school staff retain a duty of care to the student(s) involved and should advocate for student wellbeing at all times.

Before calling police into school, the Head / DSL would assess and balance the risk of a potential strip search on the student's mental and physical wellbeing and the risk of not recovering the suspected item. The Head / DSL will consider whether introducing the potential for a strip search through police involvement is absolutely necessary, and should always ensure that other appropriate, less invasive approaches 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 student(s) involved. Unless there is an immediate risk of harm and where reasonably possible, the school will inform a parent of the student suspected of concealing an item in advance of the search, even if the parent is not acting as the appropriate adult. Parents will always be informed by a staff member once a strip search has taken place. The school will keep records of strip searches that have been conducted on school premises and monitor them for any trends that emerge.

The process the police must follow during a strip search: Except in cases of urgency where there is risk of serious harm to the student or others, whenever a strip search involves exposure of intimate body parts there must be at least two people present other than the student, one of which must be an appropriate adult. If the student'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 student being searched. An appropriate adult not of the same sex as the student being searched may be present if specifically requested by the student. Otherwise, no-one of a different sex to the student being searched is permitted to be present, and the search must not be carried out in a location where the student could be seen by anyone else.

Except in urgent cases as above, a search of a student may take place without an appropriate adult only if the student 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 student'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 student involved, as well as for staff and other students 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 student might have concealed such an item. Strip searches will not be routinely carried out if there is no reason to consider that such items are concealed.

After-care following a strip search: Students 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 will always be accompanied by a safeguarding process handled by the school which gives attention to the student's wellbeing and involves relevant staff, such as the DSL.

Safeguarding will 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 student 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, students should feel that they have an opportunity to express their views regarding the strip search and the events surrounding it. School staff will give particular consideration to any students who have been strip searched more than once and/or groups of students who are more likely to be subjected to strip searching with unusual frequency, and consider preventative approaches.

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 student 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 in paragraphs relating to 'confiscation'.

If a student is found to be in possession of a prohibited item, then the staff member should alert the Head and DSL and the student should be sanctioned in line with the school's behaviour policy to ensure consistency of approach.

Recording searches: Any search by a member of staff for a prohibited item, any banned items and all searches conducted by police officers should be recorded in the school's safeguarding reporting system, including whether or not an item is found. This will allow the DSL to identify possible risks and initiate a safeguarding response if required. The school will record the following details of each search:

- the date, time and location of the search;
- which student was searched;
- who conducted the search and any other adults or students 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.

Informing parents: Woldingham School will 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 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. In some circumstances, the school may also deem it necessary to inform parents of a search for an item banned by the school. Any complaints about searching, screening or confiscation should be dealt with through the normal school complaints procedure.

Screening: Screening is the use of a walk-through or hand-held metal detector (arch or wand) to scan all students for weapons before they enter the school premises. **The school does not use screening for any of its staff or students**, though recognises that students and staff may be screened as part of an educational visit, for example. In this instance, if a student refuses to be screened, the member of staff should consider why the student is not co-operating, and make an assessment of whether it is necessary to carry out a search.

Confiscation

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 students;
- 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.

Prohibited or illegal items

Controlled drugs must be delivered to the police as soon as possible unless there is a good reason not to do so. In these cases, the member of staff must safely dispose of the drugs. In determining whether there is a good reason to dispose of controlled drugs, the member of staff must have regard to the following guidance from [Searching, Screening and Confiscation \(DfE, currently in force\)](#):

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The member of staff should take into account all relevant circumstances and use their professional judgement to determine whether they can safely dispose of the controlled drug. When staff are unsure as to the legal status of a substance and have reason to believe it may be a controlled drug, they should treat it as such. If the member of staff is in doubt about the safe disposal of controlled drugs, they should deliver them to the police.

Other Substances (including alcohol, tobacco, cigarette papers or fireworks)

Other substances which are not believed to be controlled should also be delivered to the police, or disposed of as above, if the member of staff believes they could be harmful. Where a member of staff 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 student.

Pornographic content

If a member of staff finds a pornographic image or content, 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) under section 63 of the Criminal Justice and Immigration Act 2008. In this 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 not copy, print, share, store or save such images.

Stolen items

Where a member of staff finds stolen items, these must be delivered to the police as soon as reasonably practicable. However, if there is good reason to do so, the member of staff 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 member of staff must have regard to the following guidance issued by the Secretary of State in [Searching, Screening and Confiscation \(DfE, currently in force\)](#):

The member of staff should take into account all relevant circumstances and use their professional judgement to determine whether they can safely dispose of the seized article. In taking into account the relevant circumstances, the member of staff should consider the following:

- *the value of the item - it would not be reasonable or desirable to involve the police in dealing with low value items such as pencil cases, though school staff may judge it appropriate to contact the police if the items are valuable;*
- *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.*

Weapons or items used to commit an offence

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 will 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 member of staff must have regard to the guidance issued by the Secretary of State in [Searching, Screening and Confiscation \(DfE, currently in force\)](#):

The member of staff should take into account all relevant circumstances and use their professional judgement to determine whether the item should be delivered to the police, retained, returned to the owner or disposed of. In taking into account all relevant circumstances the member of staff should consider:

- *whether it is safe to dispose of the item; and*
- *whether and when it is safe to return the item.*

If a member staff suspects a confiscated item has been used to commit an offence or is evidence in relation to an offence, the item should be delivered to the police.

Items banned under the school rules

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 have regard to the guidance issued by the Secretary of State in [Searching, Screening and Confiscation \(DfE, currently in force\)](#):

The member of staff should take into account all relevant circumstances and use their professional judgement to determine whether they can safely dispose of the seized item. In taking into account all relevant circumstances, the member of staff should consider:

- *the value of the item;*
- *whether it is appropriate to return the item to the student or parent; and*
- *whether the item is likely to continue to disrupt learning or the calm, safe and supportive environment of the school.*

Members of staff will record the outcome of any confiscations and the result of any returns or disposal of items removed. The School will take reasonable care of any items confiscated from students. However, unless negligent or guilty of some other wrongdoing causing injury, loss or damage, the School does not accept responsibility for loss or damage to property.

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 will 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 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 will confiscate the device, avoid looking at the device and refer the incident to the DSL (or deputy) as the most appropriate person to advise on the school's response. Handling such reports or concerns can be especially complicated and Woldingham School will follow the principles as set out in [Keeping children safe in education](#) (DfE, currently in force).

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 a 'good reason' to examine or erase the data or files, the member of staff must have regard to the following guidance issued by the Secretary of State in [Searching, Screening and Confiscation \(DfE, currently in force\)](#):

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

If it is found that a mobile phone, laptop or tablet computer or any other electronic device has been used to cause harm, disrupt teaching or break School Rules, including carrying out cyberbullying, the device will be confiscated and may be used as evidence in disciplinary proceedings. Once the proceedings have been concluded the device must be collected by a parent or carer and the student may be prohibited from bringing such a device onto School premises or on educational visits. In serious cases, the device may be handed to the police for investigation.

Confiscation as a disciplinary penalty: Woldingham School's general power to discipline enables a member of staff to confiscate, retain or dispose of a student's property as a disciplinary penalty, where reasonable to do so (e.g. a child's football being used inappropriately). 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.