

Title	Procedures for Screening, Searching and Confiscation.
Rationale	<p>These procedures set out the DfE's guidance to schools in respect of screening and searching students. The document provides details of the power given to schools to search students without consent and seize and then confiscate items found during a search.</p>
Policy statement	<p>Lyndon School has due regard for the DfE's guidance in respect of screening searching and confiscation. In summary, the provisions stipulate the following:</p> <p>Searching</p> <ul style="list-style-type: none"> • Staff at Lyndon school can search a pupil for any item if the pupil agrees. • The Principal 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. <p>Prohibited items are as defined by the DfE:</p> <ul style="list-style-type: none"> • knives or weapons • alcohol • illegal drugs • stolen items • tobacco and cigarette papers • fireworks • pornographic images • any article that the member of staff reasonably suspects has been, or is likely to be, used: <ul style="list-style-type: none"> • to commit an offence, or • to cause personal injury to, or damage to the property of, any person (including the pupil). • The Principal and authorised staff can also search for any item banned by the school rules which has been identified in the rules as an item which may be searched for. <p>Confiscation</p> <ul style="list-style-type: none"> • Any member of Lyndon School's Leadership or Pastoral teams 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. <p><u>Schools' obligations under the European Convention on Human Rights (ECHR)</u></p> <ul style="list-style-type: none"> • 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 our 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 but any interference with this right by Lyndon School (or any public body) must be justified and proportionate. • The powers to search in the Education Act 1996 are compatible with Article 8. <p>Screening</p> <p>Based on what the law allows:</p> <p>Any member of Lyndon School's Leadership and Pastoral teams can require a student to undergo screening by a walk-through or hand-held metal detector (arch or wand) even if they do not suspect them of having a weapon and without the consent of the students. Lyndon School reserves the right to use its statutory powers to make rules on student behaviour to ensure it can undertake its duty as an employer to manage the safety of staff, students and visitors.</p>

- Where appropriate and justified any member of Lyndon School staff may screen a student. Please note:
- If a student refuses to be screened, Lyndon School may refuse to have the student on the premises. Health and safety legislation requires a school to be managed in a way which does not expose students or staff to risks to their health and safety and this would include making reasonable rules as a condition of admittance.
- If a student fails to comply, and he/she is not admitted to the school, the student's absence will be treated as unauthorised and not an exclusion. All students are expected to comply.
- This type of screening, without physical contact, is not subject to the same conditions as apply to the powers to search without consent.

Searching with consent

Schools' common law powers to search are as follows:

- All members of the Lyndon School's Leadership and Pastoral teams can search students with their consent for any item.

Please note:

- Lyndon School is not required to have formal written consent from the students for this sort of search – it is enough for the teacher to ask the student to turn out his or her pockets or if the teacher can look in the student's bag and for the student to agree.
- Lyndon School has made clear in the school behaviour policy and in other communications to parents and students what items are banned.
- If a member of staff suspects a student has a banned item in his/her possession, they can instruct the student to turn out his or her pockets or bag and if the student refuses, the member of staff can apply an appropriate punishment as guided in the school's behaviour policy.
- A student refusing to co-operate with such a search raises the same kind of issues as where a student refuses to stay in a detention or refuses to stop any other unacceptable behaviour when instructed by a member of staff – in such circumstances, Lyndon School will apply an appropriate disciplinary penalty.

Searching without consent What the law says:

What can be searched for?

- Knives or weapons, alcohol, illegal drugs and stolen items; and
- Tobacco and cigarette papers, fireworks and pornographic images; and
- 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, or damage to property; and
- Any item banned by the school rules which has been identified in the rules as an item which may be searched for.

Who can search, expected conduct and when.

- Only the Principal or a member of his Senior Leadership or Pastoral team will perform searches of this type.
- Lyndon School will ensure that the member of staff performing this search is of the same sex as the student being searched. All searches will be undertaken in the presence of another member of staff whom, if possible, will also be the same sex as the student being searched. There is a limited exception to this rule; namely in the eventuality there is an immediate risk of serious harm if the search is not conducted immediately.
- Searches may be carried out by authorised staff when there are reasonable grounds for suspecting that a student is in possession of a prohibited item.

Establishing grounds for a search

Authorised staff will only undertake a search without consent if they have reasonable grounds for suspecting that a student may have in his or her possession a prohibited item. Authorised staff will decide in each particular case what constitutes reasonable grounds for suspicion. For example, they

may have heard other pupils talking about the item or they might notice a pupil behaving in a way that causes them to suspect that the pupil is concealing a prohibited item.

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

- The powers afforded to schools allow staff authorised by the Principal to search regardless of whether the student is found after the search to have that item. This includes circumstances where staff suspect a student of having items such as illegal drugs or stolen property which are later found not to be illegal or stolen.
- School staff may utilise any available CCTV footage in order to make a decision as to whether to conduct a search for an item.

Searches for items banned by the school rules

- An item banned by the school rules may only be searched for under these powers if it has been identified in the school's Behaviour for Learning policy as an item that can be searched for.

Location of a search

- Searches without consent will only be carried out on the school premises or, if elsewhere, where the member of staff has lawful control or charge of the student, for example on school trips in England or in training settings.

During & the extent of the search – clothes, possessions, desks etc

What the law says:

- The person conducting the search **will not** require the student to remove any clothing other than outer clothing. 'Outer clothing' means clothing that is not worn next to the skin or immediately over a garment that is being worn as underwear but 'outer clothing' includes hats, shoes, boots, gloves and scarves. Searches beyond this level will be escalated to the police.
- 'Possessions' means any goods over which the student has or appears to have control – this includes bags.
- 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.

Use of force

- In exceptional circumstances authorised members of staff may use such force as is reasonable given the circumstances when conducting a search for knives or weapons, alcohol, illegal drugs, stolen items, tobacco and cigarette papers, fireworks, pornographic images or articles that have been or could be used to commit an offence or cause harm.
Such force will not be used to search for items banned under the school rules.

The power to seize and confiscate items – general

The law allows:

- Schools to exercise their power to discipline, as circumscribed by Section 91 of the Education and Inspections Act 2006. This enables an authorised member of staff to confiscate, retain or dispose of a student's property as a disciplinary penalty, where reasonable to do so. •
Authorised members of staff can use their discretion to confiscate, retain and/or destroy any item found as a result of a 'with consent' search so long as it is reasonable in the circumstances. Where any article is reasonably suspected to be an offensive weapon, it will be passed to the police.

- **Staff have a defence to any complaint or other action brought against them. The law protects members of staff from liability in any proceedings brought against them for any loss of, or damage to, any item they have confiscated, provided they acted lawfully.**

Items found as a result of a ‘without consent’ search The law:

Allows authorised personnel carrying out a search to seize anything they have reasonable grounds for suspecting is a prohibited item or is evidence in relation to an offence.

- Allows any authorised personnel who, after conducting a search finds alcohol, the right to dispose of it. This means that Lyndon School can dispose of alcohol as they think appropriate and would under no circumstances return it to the student.
- Requires any authorised personnel who, after conducting a search find controlled drugs, to be delivered to the police as soon as possible.
- Requires any authorised personnel who, after conducting a search find other substances which are not believed to be controlled drugs to be confiscated where they believe them to be harmful or detrimental to good order and discipline.
- Requires any authorised personnel who, after conducting a search find stolen items, to be either; delivered to the police as soon as possible, returned to the owner or be retained or disposed of if returning them to their owner is not practicable.
- Allows any authorised personnel who, after conducting a search finds tobacco, cigarette papers and fireworks, the right to dispose of them.
- Allows any authorised personnel who, after conducting a search finds a pornographic image, the right to either dispose of the image unless they have reasonable grounds to suspect that its possession constitutes a specified offence (i.e. it is extreme or child pornography) in which case it will be delivered to the police as soon as reasonably practicable. •
Requires any authorised personnel who, after conducting a search find an article that has been (or is likely to be) used to commit an offence or to cause personal injury or damage to property to be delivered to the police or returned to the owner. It may also be retained or disposed of.
- Allows any authorised personnel who, after conducting a search finds an item which is banned under the school rules to use their professional judgement to decide whether to return it to its owner, retain it or dispose of it.
- Requires that any weapons or items which are evidence of an offence to be passed to the police as soon as possible.
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Statutory guidance on the disposal of controlled drugs and stolen items

- The law permits Principals and staff authorised by them to decide whether there is a good reason not to deliver stolen items or controlled drugs to the police. In determining what is a “good reason” for not delivering controlled drugs or stolen items to the police the school will have regard to the following guidance issued by the Secretary of State:
- In determining what is a ‘good reason’ for not delivering controlled drugs or stolen items to the police, the school should take into account all relevant circumstances and use their professional judgement to determine whether they can safely dispose of a seized article. •
Where Lyndon School is unsure as to the legal status of a substance and has reason to believe it may be a controlled drug they will treat it as such.
- With regard to stolen items, it would not be reasonable or desirable to involve the police in dealing with low value items such as pencil cases. However, the school may judge it appropriate to contact the police if the items are valuable (iPods/laptops) or illegal (alcohol/fireworks).

Statutory guidance for dealing with electronic devices

- Where an authorised member of staff conducting a search finds an electronic device that is prohibited by the school rules or that they reasonably suspects has been, or is likely to be, used to commit an offence or cause personal injury or damage to property, they may examine any data or files on the device where there is a good reason to do so. They may also delete data or files if they think there is a good reason to do so, unless they are going to give the device to the police. **This power applies to all schools and there is no need to have parental consent to search through a young person’s mobile phone if it has been seized in a lawful ‘without consent’ search and is prohibited by the school rules or is reasonably suspected of being, or being likely to be, used to commit an offence or cause personal injury or damage to property.**
- The authorised member of staff must have regard to the following guidance issued by the Secretary of State when determining what is a “good reason” for examining or erasing the contents of an electronic device:
- In determining a ‘good reason’ to examine or erase the data or files the staff member should reasonably suspect that the data or file on the device in question has been, or could be, used to cause harm, to disrupt teaching or break the school rules. If an electronic device that is prohibited by the school rules has been seized and the authorised member of staff has reasonable grounds to suspect that it contains evidence in

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 - Where an authorised member of staff member does not find any material that they suspect is evidence in relation to an offence, and decides not to give the device to the police, they can decide whether it is appropriate to delete any files or data from the device or to retain the device as evidence of a breach of school discipline.

Telling parents and dealing with complaints

- Schools are not required to inform parents before a search takes place or to seek their consent to search their child.
- There is no legal requirement to make or keep a record of a search.
- Schools should inform the individual student’s parents or guardians where alcohol, illegal drugs or potentially harmful substances are found, though there is no legal requirement to do so.
- Complaints about screening or searching are dealt with through the normal school complaints procedure.

Monitoring and review

Principal and Vice Principals.
September 2022

Links

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/674416/Searching_screening_and_confiscation.pdf

Staff responsible	This advice is for school leaders and school staff in schools.
Committee responsible	Lyndon Governing Body