

# Leigh Academy Rainham

## Searching and Screening Policy

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### 1. Statutory Framework

At Leigh Academy Rainham we believe that learning flourishes in a well ordered and disciplined environment. The Academy will therefore search students who it believes may have any item which could be considered harmful or detrimental to school discipline.

The Academy Behaviour Policy is written in line with the following areas of legislation and guidance:

- Education Act 2002

- Education and Inspections Act 2006
- Equality Act 2010
- Education Act 2011
- Searching, screening and confiscation in Schools DfE Guidance 2014

## 2. Roles and Responsibilities

The management of student's behaviour is the responsibility of the students themselves in the first instance and will be supported by all Academy staff. All staff have a responsibility, and by law are allowed to search students for any item which may be considered harmful or detrimental to school discipline. Those items that are banned from the Academy as set out in the [Academy Behaviour Policy](#).

## 3. Searching With Consent

Schools' common law states that school staff can search students with their consent for **any** item.

Principals and authorised staff can also search for any item which the school has identified as a banned item.

Also note:

- Schools are not required to have formal written consent from the student 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 students bag or locker and for the student to agree.
- A student refusing to cooperate with such a search raises the same kind of issues as where a student refuses to stay in detention or refuses to stop any other unacceptable behaviour when instructed by a member of staff – in such circumstances, schools can apply an appropriate disciplinary penalty.

## 4. Searching Without Consent

The Principal, and any staff authorised by them, have a statutory power to search students or their possessions, **without** consent, where they have reasonable grounds for suspecting that the student may have a **prohibited** item.

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Prohibited items are:

- 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 to commit an offence, or to cause personal injury to, or damage to the property of, any person (including the student).

## 5. Conducting a Search

### 5.1 Establishing grounds for a search

Teachers can 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. The teacher must decide in each particular case what constitutes reasonable grounds for suspicion. For example, they may have heard other students talking about the item or they might notice a student behaving in a way that causes them to be suspicious.

The powers allow school staff 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 can view CCTV footage in order to make a decision as to whether to conduct a search for an item.

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

### 5.2 Carrying out the search

What the law says:

- The person conducting the search may 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.
- ‘Possessions’ means any goods over which the student has or appears to have control – this includes desks, lockers and 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.

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- In the 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 member of staff conducting the search should bear in mind that a student’s expectation of privacy increases as they get older.
- As per the DfE Searching and Screening guidance, July 2022, Academies reserve the right to use metal detector machines or hand held detectors to search a child if they are thought to have a prohibited item on their person.

### 5.3 After a search

The power to seize and confiscate items

What the law allows:

- Schools' general power to discipline, as set out in Section 91 of the Education and Inspections Act 2006, enables a member of staff to confiscate, retain or dispose of a student's property as a disciplinary penalty, where reasonable to do so.
- The member 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 thought to be a weapon it must 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 - What the law says:

- A person carrying out a search can seize anything they have reasonable grounds for suspecting is a prohibited item or is evidence in relation to an offence.
- Where a person conducting a search finds alcohol, they may retain or dispose of it. This means that schools can dispose of alcohol as they think appropriate but this should not include returning it to the student.
- Where they find controlled drugs, these must be delivered to the police as soon as possible but may be disposed of if the person thinks there is a good reason to do so.
- Where they find other substances which are not believed to be controlled drugs these can be confiscated where a teacher believes them to be harmful or detrimental to good order and discipline. This would include, for example, so called 'legal highs'. Where staff suspect a substance may be controlled they should treat them as controlled drugs as outlined above.
- Where they find stolen items, these must be delivered to the police as soon as reasonably practicable – but may be returned to the owner (or may be retained or disposed of if returning them to their owner is not practicable) if the person thinks that there is a good reason to do so.
- Where a member of staff finds tobacco or cigarette papers they may retain or dispose of them. As with alcohol, this means that schools can dispose of tobacco or cigarette papers as they think appropriate but this should not include returning them to the student.
- Fireworks found as a result of a search may be retained or disposed of but should not be returned to the student.
- If a member of staff finds a pornographic image, they may dispose of the image unless its possession constitutes a specified offence (i.e. it is extreme or child pornography) in which case it must be delivered to the police as soon as reasonably practicable. Images found on a mobile phone or other electronic device can be deleted unless it is necessary to pass them to the police.

- Where an article that has been (or could be) used to commit an offence or to cause personal injury or damage to property is found it may be delivered to the police or returned to the owner. It may also be retained or disposed of.
- Where a member of staff finds an item which is banned under the school rules they should take

into account all relevant circumstances and use their professional judgement to decide whether to return it to its owner, retain it or dispose of it.

- Any weapons or items which are evidence of an offence must be passed to the police as soon as possible.

**5.4 Statutory guidance on the disposal of controlled drugs and stolen items** It is up to teachers 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 member of staff must 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 member of staff should take into account all relevant circumstances and use their professional judgement to determine whether they can safely dispose of a seized article.
- Where 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.
- 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, school staff may judge it appropriate to contact the police if the items are valuable (iPods/laptops) or illegal (alcohol/fireworks).

### **5.5 Statutory guidance for dealing with electronic devices**

Where the person conducting the search finds an electronic device they may examine any data or files on the device if they think there is a good reason to do so. Following an examination, if the person has decided to return the device to the owner, or to retain or dispose of it, they may erase any data or files, if they think there is a good reason to do so.

The 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 must 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 inappropriate material is found on the device it is up to the teacher to decide whether they should delete that material, retain it as evidence (of a criminal offence or a breach of school discipline) or whether the material is of such seriousness that it requires the involvement of the police.

## **6. Informing Parents and Managing 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 should be dealt with through the normal school complaints procedure.