

Searching, Screening and Confiscation

Policy & Procedure

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Contents

1. Introduction.....	2
2. Aim and Purpose of the Policy	3
3. Scope of the Policy	3
4. Prohibited items	3
5. Legitimate use of Knives and Tools	4
6. Screening	4
7. Searching a Learner	4
8. Location of a search	5
9. Dealing with electronic devices.....	5
10. Request for presentation of Prohibited Items	6
11. Searching with consent	6
12. Searching without consent.....	6
13. Use of Force.....	7
14. Procedure for Handling of Confiscated Items.....	7
15. Confidentiality, Recording Keeping and Monitoring.....	8
16. Data Protection	8
17. Informing parents/guardians/Police and dealing with complaints	9
18. Awareness and Training	9
19. Related Documents	9
Annex A - Record of Search	11

1. Introduction

- 1.1 The College has a responsibility towards its employees, learners and visitors to ensure that it has a safe environment within which staff and learners do not feel threatened. The College will support this by ensuring there is a clear understanding relating to the unacceptability of threatened or actual use of offensive weapons or prohibited items. The College operates a 'zero tolerance' approach to weapons, drugs, alcohol and prohibited items.
- 1.2 Under article 8 of the European Convention on Human Rights, learners have a right to respect for their private life. In the context of these particular powers, learners 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 and a college exercising those powers lawfully should have no difficulty in demonstrating that it has acted in accordance with Article 8 so long as it is *justified* and *proportionate*.
- 1.3 In the unusual event of a learner being screened or searched, or a learner's bag or other repository for possessions being searched, the College will take all reasonable steps to maintain its usual high standard of safeguarding. At all times a balance will be maintained between common-sense actions

rightly taken in respect of an assessed risk and the desirability to following step-by step written procedures which, however helpful, cannot anticipate every eventually.

2. Aim and Purpose of the Policy

- 2.1 The purpose of this policy is to ensure that all staff, learners and visitors are aware of the powers the College has with regards to screening, searching and confiscating items deemed to be dangerous, offensive or prohibited and the procedures that need to be followed.
- 2.2 The aim of this policy is to ensure that everyone who works and learns at the College achieves their full potential safely and to support members of staff in how to deal with incidents involving prohibited items in an appropriate manner.

3. Scope of the Policy

- 3.1 This policy applies to all learners irrespective of their method of application or enrolment or their type of study whilst attending a College centre or at a College-approved placement.
- 3.2 It applies to learner behaviours both on College sites and in external settings including trips, College transport, work placement and on social media. It applies to learners on campus and outside College grounds within the learner's normal College hours and to guests of learners whilst on College grounds. (* this list is not exhaustive)

4. Prohibited items

5. Staff authorised by the Principal have a statutory power to carry out non-consensual searches of learners or their possessions if they have reasonable grounds for suspecting that the learner may have a prohibited item. Prohibited items are deemed as the following:
 - knives or weapons
 - illegal drugs and related paraphernalia
 - stolen items
 - alcohol*
 - 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 learner)
 - tobacco and cigarette papers**

*NB: * In the case of a learner who is 18 years of age or older they should be asked to agree to a consensual search and a failure to agree will result in disciplinary action being taken. ** This only applies to learners or school links learners under the age of 16.*

- 5.1 Being in possession of a prohibited item – especially knives, weapons, illegal drugs or stolen items - may mean that the learner 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 learners who may benefit from early help or a referral to the

local authority children's services. See 'Keeping Children Safe in Education and Working Together to Safeguarding Children.

6. Legitimate use of Knives and Tools

- 6.1 Given the wide nature of College activities, learners may own and use tools and equipment that could be used as an offensive weapon. Examples are chef's knives, scalpels and craft knives used in Art, hand tools used in Engineering, Electrical or Motor Vehicle and chisels within Carpentry and Joinery. The College acknowledges its responsibility to ensure that those items which belong to the College or which it stores for learners are kept secure and that the correct procedures are in place for issue and collection. When using such equipment or tools learners are informed of the safe use of the items under staff supervision.
- 6.2 Learners have the responsibility to fully comply with procedures and instructions issued by staff. This includes following all safety procedures using tools and equipment appropriately at all times and not removing them from their designated area.
- 6.3 If learners' personal tools or equipment need to be carried from a work area this must be done so in a safe and responsible manner with items stowed within containers and not allowing others access to them.

7. Screening

- 7.1 The Principal can require learners 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 learner.
- 7.2 Any member of staff authorised by the Principal can screen learners (see 7.3). If a learner refuses to be screened, the college may refuse to have the learner on the premises and then this will be dealt with as a disciplinary matter. Health and safety legislation requires a college to be managed in a way which does not expose learners or staff to risks to their health and safety and this would include making reasonable rules as a condition of admittance.

8. Searching a Learner

- 8.1 Prior to any search being undertaken approval must be sought from the Designated Safeguarding Lead or the Deputy Designated Safeguarding Lead's or the Vice Principal – Business Services unless it is deemed that there is an immediate risk to learners or staff.
- 8.2 A search of a learner can only be conducted by a person authorised by the College Principal and the following procedures must be adhered to:
- The member of staff conducting the search must be the same sex as the learner.
 - There must be more than one member of staff present who should also be of the same sex as the learner.
 - If Security staff are involved in a search, then the other person must be a member of staff.
 - Only outer clothing may be removed. See paragraph 12.5.
 - A search can be conducted by a person of the opposite sex to the learner, but only where the searcher reasonably believes that there is a risk that serious harm will be caused to the learner if

the search is not conducted immediately and where it is not practicable to summon another member of staff.

- Force may be used as long as it is reasonable to the situation and no more force is used than is needed to carry out the search.
- Precautions required to maximise personal safety including the use of personal protective equipment should be undertaken as appropriate.

8.3 The Principal has deemed the following persons as being able to conduct a search or screening:

- Vice Principal – Business Services
- Security Staff
- College Safeguarding Officers
- Designated staff (reviewed annually) who have undertaken the appropriate College-approved training.

8.4 It should be explained to the learner at the time of the search why it is being conducted and what is being looked for. The aim will always be to elicit the cooperation and consent of the learner in the search process and to seek to minimise the need for searches to be undertaken.

8.5 The colleges Positive Behaviour Policy should outline banned items for which a search can be made. This must include the list of prohibited items as documented in 4.1.

8.6 When exercising their powers, college/staff must consider the age and needs of the learners being searched and screened. This includes the individual needs and learning difficulties of the learners with Special Educational Needs (SEN) and making reasonable adjustments that may be required where a learner has a disability.

9. Location of a search

9.1 Searches can only be carried out on the College premises or, if elsewhere, where the member of staff has lawful control or charge of the learner, for example on an authorised trip in England or in training settings. The powers only apply in England.

9.2 Searches on College property should take place out of view of anyone other than those that need to be present with appropriate sensitivity to vulnerable, gender, cultural or religious issues.

10. Dealing with electronic devices

10.1 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 conducting the search 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 college rules.”

- 10.2 On taking possession of an electronic device there is no requirement to act immediately to examine data and files and it is recognised that a degree of professional help may be required, and advice should be obtained from a line manager as how to proceed.
- 10.3 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 designated safeguarding lead (or deputy's) as the most appropriate person to advise on the college's response. If an electronic device has been seized and the member of staff has reasonable grounds to suspect that it contains evidence in relation to an offence, they must give the device to the police as soon as it is reasonably practicable. Material on the device that is suspected to be evidence relevant to an offence, or that is a pornographic image of a child or an extreme pornographic image, should not be deleted prior to giving the device to the police*

**Section 62 of the Coroners and Justice Act 2009 defines prohibited images of children. Section 63 of the Criminal Justice and Immigration Act 2008 defines extreme pornographic images.*

11. Request for presentation of Prohibited Items

- 11.1 If a member of staff suspects a learner has a prohibited item in his/her possession, they can instruct the learner to turn out his or her pockets or bag. If the learner refuses to the request, then the member of staff should immediately refer the matter to the college Safeguarding Officers.

12. Searching with consent

- 12.1 Section 89 of the Education and Inspections Act 2006 gives guidance on the College's common law powers to search. Under common law powers, Colleges are able to search lockers and similar storage facilities for any item if the learner agrees. The extent of a search with consent includes clothes, possessions, desks and lockers only.
- 12.2 Only college staff that have been search trained and are on the authorised list can search learners with their consent for prohibited items; however, consideration should be given to the article being searched for. If staff have concerns regarding their safety, or the safety of other members of staff or learners then security should be called to assist with the search.

13. Searching without consent

- 13.1 Only designated and trained members of staff can undertake a search without consent or for the full list of prohibited items. There must be reasonable grounds for suspecting that a learner may have in his or her possession a prohibited item. The member of staff must decide in each particular case what constitutes reasonable grounds for suspicion. For example, this may be hearing other learners talking about the item or noticing a learner behaving in a way that causes them to be suspicious.
- 13.2 In the case of non-consensual searches of a learner's property and possessions then the learner should be present as well as a second member of staff. Ideally both should be of the same sex as the learner to protect the learner's dignity. There is a limited exception to this rule whereby the search

can be conducted without the learner being present or a second member of staff being present, but only where the searcher reasonably believes that there is a risk that serious harm will be caused to the learner if the search is not conducted immediately and where it is not reasonably practicable to summon another member of staff.

13.3 The powers of search allow the designated staff to search regardless of whether the learner is found after the search to have that item. This includes circumstances where it is suspected that a learner may have items such as illegal drugs or stolen property which are later found not to be illegal or stolen.

13.4 CCTV footage may be viewed in order to make a decision as to whether to conduct a search for an item.

13.5 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 person with more extensive powers (e.g., a police officer) can do.

13.6 Outer clothing is deemed as clothing that is not worn next to the skin or immediately over a garment that is being worn as underwear but does include hats; shoes; boots; gloves and scarves.

13.7 “Possessions” means any goods over which the learner has or appears to have control – this includes desks, lockers and bags. A learner’s possessions can only be searched in the presence of the learner 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.

14. Use of Force

14.1 Members of staff can use such force as is reasonable given the circumstances when conducting a search for knives or weapons, alcohol, illegal drugs, stolen items, fireworks, pornographic images or articles that have been or could be used to commit an offence or cause harm.

14.2 Where the staff member anticipates that the learner may violently resist a non-consensual search, they should not under any circumstances place themselves at risk and should either call for assistance and advice or call the Police.

15. Procedure for Handling of Confiscated Items

15.1 Colleges’ 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 learner’s property as a disciplinary penalty, where reasonable to do so.

15.2 A person carrying out a non-consensual search under legislation and may seize any of the following found in the course of the search: -

- Anything which that person has reasonable grounds for suspecting is a prohibited item
- Any other thing which that person has reasonable grounds for suspecting is evidence in relation to an offence.

15.3 In regard to specific prohibited items the following actions will be applied:

- **Alcohol** may be retained and disposed of, together with its container.
- **Illegal drugs or suspected illegal drugs or substances** must be delivered to the police as soon as is reasonably practicable, but it can be disposed of if the searcher thinks there is good reason to do so. 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.
- **Stolen property** must be delivered to the police as soon as is reasonably practicable, but may be returned to its owner (or, if returning it to its owner is not practicable), retained or disposed of if the searcher thinks that there is a good reason to do so.
- **Tobacco and cigarette papers** may be retained or disposed of. As with alcohol, this means that colleges can dispose of tobacco or cigarette papers as they think appropriate, but this should not include returning them to the learner.
- **Offensive weapons** must be delivered to the police as soon as reasonably practicable.
- **Pornographic images.** 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 thought necessary to pass them to the police.
- Where a member of staff finds an **item, which is banned under the 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.

15.4 If prohibited items are to be retained or are awaiting collection by Merseyside/Lancashire Police, the safeguarding team may temporarily store such items, in a safe and secure area intended for such purposes.

15.5 In the majority of cases there will be no immediacy in acting on a find and any item seized during a search must be referred to the Safeguarding Officer who will advise on or arrange disposal. It is important to take possession of potentially harmful items so that they cannot be used by the learner.

15.6 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 and in line with this policy.

16. Confidentiality, Recording Keeping and Monitoring

16.1 All personal and sensitive information will be managed in accordance with the Data Protection Act 2018, the General Data Protection Regulation (GDPR) and the Common Law Duty of Confidentiality.

16.2 There may be occasion where the College is obliged to disclose information, notwithstanding that the learner has refused consent:

- Where the learner's behaviour threatens their safety or that of others.
- Or where the College would be liable to civil or criminal liability for failure to disclose.

16.3 There is no legal requirement to make or keep a record of a search, however all searches that take place on College premises will be recorded on a College search form (Annex A) for safeguarding

purposes. This form will be stored securely, in addition to a log being placed on the learner's Pro Monitor profile under confidential comments.

16.4 This Policy, along with any incident reports, will be monitored through the Health and Safety Committee to ensure its effective operation.

17. Data Protection

16.1 The College will comply with the Data Protection Act 2018 and the GDPR by ensuring that personal data is:

- Collected and processed lawfully, fairly and transparently for only specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes. Further processing for archiving purposes in the public interest, research purposes or statistical purposes shall not be considered to be incompatible with the initial purposes.
- Adequate, updated and relevant and not excessive for the purposes it was collected.
- Processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures. Including not being transferred to a country outside the European Economic Area, unless that country has equivalent levels of protection for personal data.
- Kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed. Personal data may be stored for longer periods solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes subject to implementation of the appropriate technical and organisational measures required by the GDPR in order to safeguard the rights and freedoms of individuals.

18. Informing parents/guardians/Police and dealing with complaints

18.1 Colleges are not required to inform parents before a search takes place or to seek their consent to search their child.

18.2 Where necessary Safeguarding Officers will be responsible for informing the individual learner's parents or guardians (where the learner is under 18 or a vulnerable adult), when a search has taken place. Information will be shared about what prohibited items including alcohol, drugs or potentially harmful substances are found and any action to be taken under the College's Positive Behaviour Policy. Where appropriate a report may also be made to the Police.

18.3 Complaints about screening, searching or confiscation should be dealt with through the normal College complaints procedure or through following the appeals process as set out in the Positive Behaviour Policy, whichever is most appropriate.

19. Awareness and Training

19.1 Staff should be aware that the possession of prohibited items by learners may come to light in various ways.

19.2 For further information please contact the Safeguarding Officers on ext. 2821.

19.3 Training will be provided to relevant staff, for example Duty Principals, Student Services, Safeguarding Officers, Security and Progress Tutors, as required.

19.4 The College raises learner awareness of prohibited items through and can support learners through:

- Progress tutor support
- Positive Behaviour Policy
- Induction activities
- Awareness events
- External speakers
- Access to information and advice
- Close links with relevant external agencies
- Access to counselling (as appropriate) and referrals in to specialist agencies

20. Related Documents

17.1 This Policy and its associated procedures have been developed in accordance with:

- The Education Act 1996 www.legislation.gov.uk/ukpga/1996/56/contents
- Education and Inspections Act 2006 www.legislation.gov.uk/ukpga/2006/40/contents
- The Schools (Specification and Disposal of Articles) Regulations 2012
www.legislation.gov.uk/uksi/2012/951/contents/made
- School Behaviour (Determination and Publicising of Measures in Academies) Regulations 2012
www.legislation.gov.uk/uksi/2012/619/contents/made
- Health and Safety at Work etc. Act 1974 www.legislation.gov.uk/ukpga/1974/37/contents
- Keeping Children Safe in Education September 2024 (Department for Education)
- Working Together to Safeguard Children (HM Government 2023)
- Coroners and Justice Act 2009
- Criminal Justice and Immigration Act 2008

17.2 Associated reference points used in the development of this policy include:

- Use of Reasonable Force: Advice for head teachers, staff and governing bodies
www.gov.uk/government/publications/use-of-reasonable-force-in-schools
- Behaviour and Discipline in Schools – advice for head teachers and school staff
www.gov.uk/government/publications/behaviour-and-discipline-in-schools
- Searching, Screening and Confiscation Advice for schools July 2022

<https://www.gov.uk/government/publications/searching-screening-and-confiscation>

17.3 Where it is felt to be more appropriate this policy can be used alongside of, or instead of, other College procedures including:

- Safeguarding Policy and Procedures
- Sexual Violence & Sexual Harassment Policy
- Mental Health Policy and Procedures
- Comments, Compliments and Complaints Procedure
- Positive Behaviour Policy
- Drugs, Alcohol and Substance Misuse – Learners Policy and Procedures
- Equality, Diversity and Inclusion Policy
- Fitness to Study and Practise Policy and Procedures
- Anti-Bullying Policy
- Health and Safety Policy

Annex A - Record of Search

Details of Learner:		Learner ID:	
Full Name:		Male ☐	Female ☐
		DoB / /	
Tel No:		If under 18 Parent/Guardian Name:	
Address:			
Department/Service/Course:			
Details of Search			
Date of Search:			
Time of Search:			
Location of Search: Building & Room Number			
Permission to search obtained from DSL/DDSL or Director of Facilities Management?		Details:	
Have Safeguarding Officers been informed?		☐ Yes	☐ No
<i>NB: If learner is under 18 Safeguarding Officers will inform parent/guardian when necessary</i>			
Type of Search	Screening Planned Activity ☐	Search with Consent ☐	Search without Consent ☐
Grounds for the Search:			
Reason for/objective of search:			
Details of those present			
College Staff/Tutors/Security staff/Other	Name	Telephone No	

Did it involve Violence /Aggression?	☐ Yes	☐ No
If yes, explain the circumstances		
What items were found? Consider photographing items, and identify where the seized property is stored.		
Were the Police informed?	☐ Yes	☐ No
Has action been taken? If 'yes', summarise below	☐ Yes	☐ No
Suggested further action(s) if necessary		

Name (please print):	
Signature:	
Date:	

