



# HEATHFIELD SCHOOL

## Conducting a Search Policy

<b>Policy Area:</b>	Wellbeing
<b>Relevant Statutory Regulations:</b>	<p>ISSR Part 2 &amp;3</p> <p>NMS 9, 6, 12</p> <p>Equality Act 2010</p> <p>Education Act 1996</p> <p>European Convention on Human Rights Article 8</p> <p>School Behaviour Regulations 2012</p> <p>Children Act 2004: 10 (2)</p> <p>The Health and Social Care Act 2012</p> <p>Education Act 2002</p> <p>Education and Inspections Act 2006</p> <p>DfE Searching, screening and confiscation September 2022</p> <p>DfE Behaviour and discipline in schools January 2016</p> <p>DfE Guidance on Sharing nudes and semi-nudes: advice for education settings working with children and young people Updated March 2024</p>
<b>Key Contact Personnel in School</b>	
<b>Nominated Member of Leadership Staff Responsible for the policy:</b>	Deputy Head (Pastoral and Boarding)
<b>Version:</b>	2024.01
<b>Date updated:</b>	01 September 2024
<b>Date of next review:</b>	01 September 2025

*This policy will be reviewed at least annually, and/or following any concerns and/or updates to national and local guidance or procedures.*

## **Introduction**

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Heathfield School ("the School") fully recognises the responsibility it has under section 157 of the Education Act 2002 to have arrangements in place to safeguard and promote the welfare of children. A strength of the School is it provides a safe physical environment in which the pupils feel a sense of belonging, trust and respect. If a pupil or group of pupils are suspected of carrying or possessing an item/s that may impact their own or other's safety the School will be permitted to search a pupil or their possessions as detailed in this policy.

The Education Act 2011 and DFE Guidance for Schools on Screening, Searching and Confiscation (2022) allow for the search and confiscation of items that are dangerous, illegal or detrimental to school discipline and the well-being of the School community. This includes searches with the use of a metal detector.

In the general course of school life, given pupils' good conduct overall and considering the very good relationships between pupils and staff, it is unlikely that searching pupils will be necessary. There are however some occasions when it might be necessary to search a pupil, their belongings, room and/or locker. This may be the case because there is a suspicion:

- of the use of drugs, alcohol, tobacco (or any general smoking paraphernalia) and vapes.
- that a pupil has stolen another's property
- that some property has gone missing and there is a need to establish its whereabouts
- that a pupil is in possession of pornographic or other inappropriate material
- that a pupil has brought knives/weapons into school
- that a pupil is in possession of an article that may cause personal injury to, or damage to the property of, any person
- that a pupil has an article which may be used to commit an offence or cause injury to a person or property
- that a device (electronic equipment) has been used inappropriately (e.g. cyberbullying, sexting, sending indecent images, etc.)
- that a pupil has an article in their possession which contravenes school rules (e.g. fireworks, laser pens, etc.)

Searches can also be undertaken as part of our ongoing drug monitoring procedures to provide a safe and healthy environment for all at School, detection dogs can be deployed around the site to check its premises. This is a preventative measure, common in most boarding schools. The search team are always accompanied and both staff and pupil areas and the grounds of the School may be searched.

When pupils or their belongings are searched, the following guidelines should always be followed.

## **Location of a search**

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Searches may be carried out on School premises or elsewhere where the member of staff has lawful control or charge of the pupil, e.g. a sports match, school trip or visit. Where possible this should be away from other pupils and the member of staff must be the same sex as the pupil being searched.

Staff should make the reason for the search clear to the pupil and gain pupil consent. Formal written consent is not required. It is enough for a member of staff to ask a pupil for consent verbally. Parental permission does not have to be given for a search to take place.

If a pupil is suspected of carrying an item (for example cigarettes) the best approach is to ask them, in the presence of a second adult witness (ideally a person of the same sex) to turn out their pockets or bag. If they refuse to obey, the Deputy Head (Pastoral and Boarding) (“DH (P& B)”) should be notified immediately.

Pupil consent to search is not required if the items searched for are knives or weapons, alcohol, illegal drugs, stolen items, tobacco, vapes, fireworks, pornographic images or any item staff consider to be used to commit an offence.

If it is felt necessary to conduct a personal search (i.e. because failure to do so at that point in time may cause significant harm to that pupil or the wider community) it must be limited to pockets and removal of outer clothing only. It is hoped that a personal search will never be deemed necessary at School. A reminder to a pupil that failure to turn out their pockets is a signal of guilt (and therefore would likely incur a disciplinary response) should prove enough to persuade any initially unwilling pupil to conform.

Two adults should always be present if a pupil, their property or room is being searched and at least one adult should be of the same sex as the pupil. However, if it is not reasonably practicable to summon another member of staff (i.e. because a search has to be undertaken immediately) a search can be made by one member of staff, however they must be of the same sex.

Ideally the pupil should be present when their room is being searched. However, this is not necessary if there is a risk that serious harm will be caused to a person if the search is not conducted immediately or if the article(s) being searched for might be removed by a third person before the pupil can be present. It may also be the case that a pupil is absent from School at the time when it is appropriate to carry out a search. Should this be the case consent should still be requested over the telephone and when conducting any search two members of staff must be present.

When conducting the search staff should openly show the pupil where they are looking.

Staff should show pupils where any suspicious substances/articles have been found immediately and make sure the second member of staff has seen the location.

If a banned/inappropriate article is discovered the members of staff conducting the search should remove the article and place it in a secure location until it is either passed onto a member of the on-duty member of Senior Leadership Team (“SLT”) or DH (P & B), given back to the owner (if dealing with a stolen item) and/or destroyed. (See later notes on ‘Confiscation’).

It is necessary practice to make a record of any searches carried out and any articles found. A template is attached to this policy which helps to identify what information should be recorded.

### **Searching electronic devices**

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Staff may examine any data or files on an electronic device if they think there is good reason to do so. However, if they suspect content to be a child protection matter, which includes but is not limited to indecent images of children, abusive messages, images or videos, the device should be given to the Designated Safeguarding Lead (“DSL”) before inspecting it.

‘Good reason’ is defined as having reasonable suspicion that the data or file on the device has been or may be used to cause harm, undermine the safe environment of the school, disrupt teaching or be used to commit an offence.

If inappropriate material is found on the device it is up to the DH (P & B) or Headmistress to decide whether they should delete that material, retain it for 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.

Best practice would require two members of staff to be present when viewing material on a pupil's device.

Pupils are required to unlock the device where a password/lock necessitates this.

*Secretary of State guidance: 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. Staff must have "good reason" for examining or erasing the contents of an electronic device, i.e. they 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.*

## **Non-consent**

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Staff can undertake a search without consent if they have reasonable grounds for suspecting that a pupil may have in their possession a prohibited item. The staff must decide in each case what constitutes reasonable ground 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 be suspicious. With the Headmistress' permission staff may view CCTV footage in order to decide as to whether to conduct a search for an item.

If a pupil refuses to consent to a search of their room/personal belongings, in the first instance, contact their parents to see whether they can persuade their daughter to allow a search to be made. If the pupil still does not consent it may be appropriate to call the police, or to proceed to search using the powers provided under the 2011 Act depending upon the seriousness of the circumstances and therefore what is deemed 'reasonable'. Authorised by the Headmistress, School staff have a specific statutory power to search pupils (and/or their belongings) **without consent** for specific prohibited items – knives, weapons, alcohol, tobacco, fireworks, pornographic images, illegal drugs and stolen items.

A pupil should be reminded that failure to provide consent (or in the case of a request to turn out their pockets/show the contents of a bag) is a sign of guilt and would result in disciplinary sanctions.

NOTE: When dealing with non-consent, any item banned by the School rules may only be searched for under the 2011 Act if it has been identified in the School rules as an item that can be searched for. E.g. The School bans all smoking paraphernalia such as vaping, rolling devices etc

## **Conditions for searching without consent**

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The member of staff conducting the search must be the same sex as the pupil being searched.

There must be a second staff member as witness, preferably also the same sex as the pupil being searched.

## **Boundaries**

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Whether with consent or without, staff should not in any search:

- Use excessive force (reasonable force may be used when conducting a search for prohibited items listed above).
- Require the pupil to remove any clothing – other than outer clothing (i.e. clothing not worn immediately against the skin or against underwear including coats, hats, shoes, boots, gloves etc for the purpose of searching it).
- Strip searches will only be carried out on the school premises by the police. Prior to involving the police consideration will be given to the balance of risk to the pupil's mental and physical wellbeing versus the risk of not recovering the suspected item.

## **Extent of the search**

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The School can search bags, rooms, lockers or desks for any item provided the pupil agrees. If the pupil does not consent, then it is possible to conduct a search but only for the prohibited items listed above. If the pupil objects (which they have the right to do) staff should inform the pupil's Head of Year, Houseparent, Deputy Head (Pastoral and Boarding) and ultimately their parents immediately. 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.

## **After the search**

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Heads of Year or Houseparents should always contact the affected pupil's parents after any search, regardless of the outcome. A proper record should also be kept on the centralised records or by the Deputy Head (Pastoral and Boarding). These records should include details of the person searched, the reason for the search, the date, time and place, who was present and noting any outcomes and follow-up action.

- If an inappropriate item is discovered a pupil should have the opportunity to explain why the article(s) was found.
- Where an inappropriate item was found (especially where alcohol, illegal drugs or potentially harmful substances are found) parents should be told and kept informed of any resulting disciplinary procedures.
- Even if no inappropriate item was discovered it is best practice to inform parents of why a search was felt necessary.
- Disciplinary action may be taken if the search has resulted in the discovery of inappropriate article(s).
- All pupils will be encouraged to discuss with their tutor/ Housemistress or Head of Year the reasons behind the decisions they have made, and support will be put in place if necessary. Health Centre will assist with any guidelines on smoking, drug or alcohol addictions.

## **Confiscation**

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

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 onto the police.

School's 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 pupil's property as a disciplinary penalty, where reasonable to do so.

Where a person carrying out a search find:

- Illegal drugs: they should be passed onto the DH (P & B). The drugs would then be handed over to the police.
- Stolen items: they should be returned to their owner where possible. The DH (P & B) should be informed so that a decision over whether the police should be informed can be taken.
- Tobacco/smoking paraphernalia and/or alcohol: they should be retained or destroyed.
- Pornographic material: they should 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 is reasonably possible.
- Weapons or items which are evidence of an offence: they should be passed onto the police as soon as possible.
- An item which is banned under the School rules: they should take into account the relevant circumstances and use their professional judgement to decide whether to return it to its owner, retain or dispose of it (e.g. a laser pen)
- The member of staff who has confiscated the item should log this on the Sanction log on Engage.

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); if in doubt about the period of confiscation, staff should consult the DH (P & B).

### **Confiscation of drugs**

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If staff are unable to identify the legal status of a drug, it should be treated as a controlled drug. In taking temporary possession and disposing of suspected controlled drugs schools are advised to:

- Ensure that a second adult witness is present throughout
- Seal the sample in a plastic bag and include details of the date and time of the seizure/find and witness present
- Store it in a secure location, such as a safe or other lockable container with access limited to senior members of staff

- Notify the police without delay, who will collect it and then store or dispose of it in line with locally agreed protocols. The law does not require a school to divulge to the police the name of the pupil from whom the drugs were taken but it is advisable to do so.

The School will:

- record full details of the incident, including the police incident reference number
- inform parents/carers, unless this is not in the best interests of the pupil
- identify any safeguarding concerns and develop a support and disciplinary response.

### **Obligations under the European Convention on Human Rights (“ECHR”)**

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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 right under Article 8 is not absolute, it can be interfered with but any interference with this right by a school (or any public body) must be justified and proportionate. The powers to search in the Education Act 1996 are compatible with Article 8. A school exercising those powers lawfully should have no difficulty in demonstrating that it has also acted in accordance with Article 8.

### **Complaints**

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Complaints about searching and confiscation should be dealt with through the normal School complaints procedure, set out in the Parents’ Complaints Policy and Procedure

### **Training**

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There is no legal requirement for a member of staff carrying out a search to receive training beforehand. However, the School has the responsibility of ensuring that all their house tutors are aware of, and understand, the guidelines set out in this document.

### **Related Policies**

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- Alcohol Policy
- Anti-Smoking and Nicotine Policy
- Drugs Policy
- Parents’ Complaints Policy and Procedure
- Promoting Positive Behaviour Policy
- Pupil Code of Conduct Policy
- Safeguarding Children and Child Protection Policy

**Appendix 1 – Template**

**HEATHFIELD SCHOOL RECORD OF ROOM AND LOCKER SEARCHES**



<b>PUPIL NAME:</b>	<b>LOCATION:</b>
<b>DATE:</b>	<b>TIME OF SEARCH:</b>
<b>REASON FOR SEARCH:</b>	
<b>OUTCOME OF SEARCH:</b>	
<b>WHO CARRIED OUT SEARCH:</b>	
<b>WHO WAS PRESENT DURING SEARCH:</b>	
<b>WAS THE PUPIL IN AGREEMENT TO THE SEARCH?</b>	
<b>SIGNATURES OF ALL PRESENT:</b>	