**Searching pupils and confiscation**

Updated guidance on searching pupils and confiscation came into effect in September, with more emphasis placed on safeguarding. Know what's changed and understand the rules on when you can search pupils and what process you should follow.

Last reviewed on 25 November 2022

[See updates](https://schoolleaders.thekeysupport.com/pupils-and-parents/behaviour-and-attendance/dealing-with-behaviour-that-challenges/searching-pupils-guidance-and-policies/#article-updates)

School types: All · School phases: All

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**What are the changes from 1 September 2022?**

The DfE has reviewed and updated its [guidance on searching, screening and confiscation](https://www.gov.uk/government/publications/searching-screening-and-confiscation).

This comes after the publication of the [Safeguarding Practice Review](https://chscp.org.uk/portfolio/local-child-safeguarding-practice-review-child-q/) report on the case of [Child Q,](https://chscp.org.uk/portfolio/local-child-safeguarding-practice-review-child-q/) where a pupil was strip-searched without parental consent at school. The Safeguarding Practice Review highlighted the need to put safeguarding at the centre of your school's approach to handling searches.

The updated DfE guidance, applying from 1 September 2022, places a bigger emphasis on your safeguarding duty. This includes:

* A change in approach on which staff members can search pupils (read more about this in the section 'Make sure your behaviour policy is clear on how you'll conduct searches')
* That you should record certain searches in your school’s safeguarding system (the old guidance said there's no legal requirement to record)
* New guidance on what you should do before, during and after a search
* New guidance on strip searches and supporting the pupil afterwards
* That where possible, you should inform parents of a search for a prohibited item **before** you carry out a search. You should **always**inform parents of any search for prohibited items and the outcome as soon as practicable (the old guidance said you're not required to inform parents before a search or to seek their consent)
* The importance of staff understanding the rights of the pupil being searched

See below for a summary of the guidance.

**Prioritise safeguarding**

You have a duty of care to all pupils in your school. This means that you should balance:

* The need to safeguard all pupils by confiscating harmful, illegal, or disruptive items
* The safeguarding needs and wellbeing of pupils suspected of possessing these items

**The 'best interests' of the child should be your primary consideration**

[Keeping Children Safe in Education](https://www.gov.uk/government/publications/keeping-children-safe-in-education--2) (KCSIE) sets out the statutory duty of all staff to make sure that they make decisions in the best interests of the child. This applies to decisions to search pupils and confiscate items.

Be vigilant about possible biases affecting your decision to search a pupil

You should also consider that all pupils have a right to expect a reasonable level of personal privacy, under [Article 8](https://www.legislation.gov.uk/ukpga/1998/42/schedule/1/part/I/chapter/7) of the European Convention on Human Rights. Any 'interference' with this right by your school must be justified and proportionate.

While you'll only search a pupil if you have good reason to, consider that, for the pupil, it could infringe upon their wellbeing and rights in several different ways. For example:

* Physical loss of privacy when clothes, bags, or possessions are searched
* Loss of a sense of security, if they feel they are being monitored and searched without reason
* The impact to a pupil’s dignity or reputation if they are unduly searched or suspected of possessing prohibited items

**Be vigilant to bias**

Be aware of, and encourage staff to be especially vigilant about, possible biases affecting decisions to carry out or escalate searches. [The Safeguarding Review into the Child Q](https://chscp.org.uk/portfolio/local-child-safeguarding-practice-review-child-q/) case found that "racism (whether deliberate or not) was likely to have been an influencing factor in the decision to undertake a strip-search".

Use the data from your record of searches to see if any groups are disproportionately subject to searches (read more about recording searches below).

**Treat confiscations as a safeguarding issue**

As you know, children in possession of drugs, alcohol or weapons should be considered vulnerable and at risk of exploitation. Paragraph 20 of [KCSIE](https://www.gov.uk/government/publications/keeping-children-safe-in-education--2) highlights the need to be alert to the potential risks of children who are:

* Showing signs of being drawn in to anti-social or criminal behaviour
* In challenging family circumstances, such as drug and alcohol misuse
* Misusing drugs or alcohol themselves

Children in possession of drugs, alcohol or weapons should be considered vulnerable

A search can play a vital role in identifying pupils who may benefit from early help or a referral to the local authority children’s social care services. Your designated safeguarding lead (DSL) should make an immediate referral if they find evidence that a child is at risk of harm.

Inform your DSL of any searching incidents that you believe revealed a safeguarding risk, or gave you reasonable grounds to suspect that a pupil was in possession of a prohibited item (see the section below for a list of such items).

See our examples of [child protection concern forms](https://schoolleaders.thekeysupport.com/pupils-and-parents/safeguarding/managing-safeguarding/child-protection-sample-monitoring-incidents-forms/) that your DSL can use, and read the statutory guidance on [working together to safeguard children](https://www.gov.uk/government/publications/working-together-to-safeguard-children--2).

**Make sure your behaviour policy is clear on how you'll conduct searches**

**Set out which staff members can conduct searches and when**

On the face of it, there are inconsistencies in the updated DfE guidance on this. The underlying legislation has **not** changed, meaning that:

* Staff members have the power to search pupils for any item if the pupil agrees, under the common law (paragraph 4 of the DfE guidance). The DfE told us that how this applies to a particular case will depend on the situation and your school policy
* Only the headteacher and members of staff authorised by the headteacher have the power to search a pupil for a prohibited or banned item, regardless of whether the pupil agrees (sections [550ZA and 550ZB](https://www.legislation.gov.uk/ukpga/1996/56/chapter/II/crossheading/powers-to-search-pupils) of the Education Act 1996, and paragraph 10 in the guidance). Your policy should set out which items can be searched for (read more about prohibited and banned items below)

However, it's best practice to only allow authorised teachers to carry out searches (see the section on who can carry out searches and when below). We've reflected this recommended approach throughout the rest of this article.

Whatever your approach, make sure that your [behaviour policy](https://schoolleaders.thekeysupport.com/policy-expert/behaviour/behaviour-model-policy-and-examples/) clearly states who will conduct searches.

**Set out how you'll gain consent and what will happen if a pupil refuses to cooperate**

You can sanction pupils if they refuse to cooperate with a search for a prohibited item (read more in the 'How to carry out a search' section below). However, the DfE told us that you should seek the informed cooperation of the pupil before any search. Where possible, you should avoid presenting the idea that a pupil can be sanctioned for refusing to consent to a search, as this may imply that the pupil didn't freely consent.

Your behaviour policy should reflect this approach and set out a clear process for gaining consent.

**Who can carry out a search and when**

As mentioned in the section above, your behaviour policy should set out who, in addition to the headteacher, is authorised to carry out a search. They can do this if:

* The pupil agrees to the search, **or**
* The authorised staff member has 'reasonable grounds' (more on this below) to suspect that the pupil may have a prohibited or banned item (see the next section for definitions of these)

This is outlined in paragraphs 2, 4 and 10 of the [DfE’s guidance on searching and screening](https://www.gov.uk/government/publications/searching-screening-and-confiscation).

Even though common law sets out that any staff member can conduct a search with the pupil's permission, **it's best practice to only allow staff members who have been authorised by the headteacher to conduct searches**.

This will give your school the best defence if you are later accused of carrying out improper searches, and help you uphold your safeguarding duties.

This advice comes from [Forbes Solicitors](https://www.forbessolicitors.co.uk/secure/business/enquiry.htm?pa=27).

The headteacher can:

* Authorise members of staff to search for specific items (e.g. alcohol only), or all banned items
* Require a security staff member (including those who aren't school staff) to conduct a search

Under law:

* The person carrying out the search **must**be the same sex as the pupil being searched
* There **must**be another member of staff present as a witness to the search

The only exception to this is if:

* The searcher reasonably believes that there is a risk of serious harm being caused to a person if a search isn’t carried out urgently **and**
* It's not reasonably practical to summon another member of staff (to carry out the search or act as a witness) within the time available

The member of staff witnessing the search must also be the same sex as the pupil being searched **if** this is reasonably practicable ([paragraph 6(d)](https://www.legislation.gov.uk/ukpga/1996/56/chapter/II/crossheading/powers-to-search-pupils) of section 550ZB of the Education Act 1996) .

When an authorised staff member conducts a search without a witness, they should immediately report it to another member of staff, and make sure that a record is kept (see the section on how to record searches for more support).

What does 'reasonable grounds' mean?

**What you can search for**

Headteachers and authorised staff members can search a pupil for:

* Any items with the pupil's informed consent
* Prohibited or banned items, with or without the pupil's consent

**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
  + Cause personal injury (including the pupil) or damage to property

This list is set out in [The Education Act 1996](https://www.legislation.gov.uk/ukpga/1996/56/section/550ZA) and paragraph 3 of the DfE's guidance on searching, screening and confiscation.

**Other items banned by your school**

In addition to the list above, headteachers and authorised staff members can also search for other specific items banned in your school.

Your behaviour policy should clearly state what banned items can be searched for (this must include the list of prohibited items above).

Communicate your policy to all members of the school community to make sure that pupils, parents and staff know which items may be searched for.

**How to carry out a search**

Before a search

If a pupil refuses to cooperate

Searching a pupil's clothes

Searching a pupil's possessions

**Only police can conduct a strip search**

School staff are **not** allowed to carry out strip searches, including the headteacher and authorised staff. Only police who have been asked to come to the school may decide whether a search is necessary and carry it out. The police can only carry out a search if they:

* Think this is necessary to remove an item related to a criminal offence, **and**
* Reasonably consider the pupil might have concealed such an item

**Call the police into school as a last resort**

Always put the best interest of the child first. This means that before you decide to call the police into school you should first:

* Make sure that you've exhausted other approaches
* Carefully weigh up the risks to the pupil’s mental and physical wellbeing with the need to conduct a search

Before a search

During a search

Remember your duty of care at all times

Support the pupil after the search

**How to record searches**

You should make a record in your safeguarding reporting system of:

* Any searches for prohibited items
* Any search conducted by police officers

Record these whether or not any items were found.

Headteachers may also decide to record searches for other items banned by your school, but this should be followed consistently.

Use your record to look for any trends in the searches carried out at your school, and to identify any possible risks that may require a safeguarding response.

What to include in your record

**What you can confiscate**

Authorised staff members can confiscate any item they find that they have reasonable grounds for suspecting:

* Poses a risk to staff or pupils
* Is a prohibited or banned item
* Is evidence in relation to an offence

What to do with confiscated items

**Searching and confiscating electronic devices**

Authorised staff members may examine any data or files on an electronic device that they have confiscated, if they have good reason to do so. You should reasonably suspect that the device has (or could be used to):

* Cause harm
* Undermine the safe environment of the school or disrupt teaching
* Commit an offence

If you discover pornographic material

**You can require pupils to be screened**

Screening is the use of a walk-through or hand-held metal detector to scan all pupils before they enter the school site.

You can require pupils to undergo screening. However:

* Before you consider installing and using any screening technology, you're encouraged to consult with your local police, as they may be able to provide advice about whether installing these devices is appropriate
* If you introduce new screening measures, you should inform pupils and parents in advance to explain what it will involve
* Make sure to make reasonable adjustments to the screening process where a pupil has a disability

**Article updates**

**25 November 2022**

We made a correction to say that the member of staff witnessing the search must also be the same sex as the pupil being searched **if** this is reasonably practicable (in accordance with [paragraph 6(d)](https://www.legislation.gov.uk/ukpga/1996/56/chapter/II/crossheading/powers-to-search-pupils) of section 550ZB of the Education Act 1996).