



# Rye Community Primary School Policy

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Policy Title:	Screening, Searching and Confiscation
Leadership Responsibility:	Head of School
Review Body:	Executive Headteacher
Date:	November 2019
Review:	November 2020

## Statement of Intent

Rye Community Primary School appreciates that pupils have the right to expect a reasonable level of personal privacy and will do its utmost to ensure that, as far as possible, this right is respected.

Nevertheless, the school also takes seriously its obligation under health and safety legislation to be managed in a way which does not expose pupils or colleagues to unnecessary risks.

This policy sets out the framework in which the school will meet this obligation by outlining the circumstances in which pupils can be screened and searched. The policy also outlines the legal powers to seize and confiscate items during a search.

## Legal framework

This policy has due regard to legislation and statutory guidance, including, but not limited to, the following:

- Health and Safety at Work etc. Act 1974;
- Education Act 1996;
- Education and Inspections Act 2006;
- The Schools (Specification and Disposal of Articles) Regulations 2012;
- The School Behaviour (Determination and Publicising of Measures in Academies) Regulations 2012;
- European Convention on Human Rights;
- DfE (2018) 'Searching, screening and confiscation';
- DfE (2013) 'Use of reasonable force';
- DfE (2016) 'Behaviour and discipline in schools'.

This policy operates in conjunction with the following school policies:

- Behaviour Management Policy;
- Exclusion Policy;
- Trust Equality Policy;
- Trust Positive Handling Policy;
- Trust Safeguarding Policy and Academy Child Protection Policy;
- Special Educational Needs and Disabilities (SEND) Policy;
- CCTV Policy.



## Screening

Under the school's statutory power to make rules on pupil behaviour and the duty to manage the safety of colleagues, pupils and visitors, the school imposes a requirement that pupils undergo screening.

All colleagues have the authority screen pupils.

The screening of pupils by a walk-through or hand-held metal detector without their consent is permitted, even if it is not suspected that they are in possession of a weapon.

If a pupil refuses to be screened, the school may refuse to allow that pupil on the premises to protect the safety of other pupils and colleagues.

If a pupil fails to comply with being screened, and the school does not allow the pupil onto the premises, the school has not excluded that pupil and the pupil's absence will be treated as unauthorised. The pupil should comply with the screening rules so they can attend school.

Screening without physical contact is not subject to the same conditions as those that apply to the powers to search without consent.

## Searching with consent

Any colleague has the authority to search pupils for any item with their consent.

Formal written consent is not required for this sort of search.

Items banned from the school premises are outlined in this policy.

If a colleague suspects a pupil is in possession of a banned item, the pupil will be instructed to turn out their pockets or bag. If the pupil refuses to do this, the colleague should apply an appropriate punishment in line with the school's Behaviour Management Policy.

## Authorising Colleagues

Only the **Head of School** and authorised colleagues have the authority search pupils without their consent.

The **Head of School** is responsible for naming the authorised colleagues. Authorised colleagues with these powers are:

- Miss Fran Brassleay (Assistant Head) ♀;
- Mrs Lisa Nice (Assistant Head) ♀;
- Mr Ben Neville (UKS2 Teacher – witness only) ♂;
- Mr Simon Thomas ((UKS2 Teacher – witness only) ♂.

All colleagues, other than a security guard employed by the school, are permitted to refuse to undertake a search. If a security guard, who is not a member of the school, searches a pupil, a permanent colleague will witness the search.

Some colleagues are authorised to search for some items but not others, e.g. a colleague could be authorised to search for stolen property, but not weapons.



When deciding which colleagues will be authorised to undertake searches under these powers, the **Head of School** will consider whether the colleague requires any additional training to enable them to carry out their responsibilities.

### Searching without consent

The **Head of School** and authorised colleagues have the statutory power to search pupils or their possessions, without consent, where they have reasonable grounds for suspecting that the pupil may be in possession of a prohibited item. The colleague will decide what constitutes as reasonable grounds for suspicion on a case-by-case basis.

Prohibited items are:

- Knives or weapons;
- Alcohol;
- Illegal, prescription and non-prescription drugs and paraphernalia;
- Stolen items;
- Tobacco, cigarette papers and paraphernalia;
- E-cigarettes;
- Fireworks;
- Pornographic images;
- Any item that a colleague suspects has been, or is likely to be, used to commit an offence or to cause personal injury to, or damage the property of, any person.

As far as possible, pupils will only be searched by colleagues who are the same sex as them and all searches will be witnessed by another colleague who will be, where possible, the same sex as the pupil being searched. In case of recognised gender fluidity, the pupil may express a preference for the gender of colleagues undertaking and witnessing the search.

As far as possible, a search will only be conducted by a person who is not the same sex as the pupil being searched, or without a witness, where the colleague reasonably believes there is a risk of serious harm if the search is not conducted immediately. Under these exceptional circumstances, the colleague conducting the search will consider that a pupil's expectation of privacy increases as they get older.

The school may consider the use of CCTV footage in order to decide whether to conduct a search of an item. Any CCTV usage will be conducted in line with the school's CCTV Policy.

**This policy should be read in conjunction with the CCTV Policy.**

An item banned by the school rules will only be searched for without consent if it is identified in the school rules that it is an item that can be searched for.



Banned items include:

- Legal highs;
- Aerosol cans;
- Paint thinners;
- Non-prescribed hypodermic needles.

Searches without consent will only be carried out on the school premises or, if elsewhere, where the colleague conducting the search has lawful control or charge of the pupil, e.g. on a school trip in England.

### During the search

Definitions:

- **Outer clothing** – clothing that is not worn next to the skin or immediately over a garment that is being worn as underwear, e.g. hats, shoes, gloves.
- **Possessions** – any goods over which the pupil has or appears to have control, including desks, lockers and bags.

The person conducting a search will not ask the pupil being searched to remove any clothing other than outer clothing.

A pupil's possessions, their locker or desk will only be searched in the presence of the pupil and another colleague, except where there is a risk that serious harm will be caused if the search is not conducted immediately.

The power to search without consent enables a personal search, involving removal of outer clothing and the searching of pockets, but not an intimate search going further than that, which only a person with more extensive powers (i.e. a police officer) can do.

If a pupil does not consent to a search or withdraws consent having signed a consent form, then they may be subject to a search without consent but only for prohibited items.

Colleagues are permitted to use such force as is reasonable, given the circumstances, when conducting a search for prohibited items, but will not use force to search for items banned only under school rules.

### After the search

Colleagues are permitted to confiscate, retain or dispose of a pupil's property where it is reasonable to do so.

Colleagues will use their discretion to confiscate, retain and/or destroy any item found due to a search with the pupil's consent, so long as it is reasonable in the circumstances. Where any item is reasonably suspected to be an offensive weapon, it will be passed to the police.

Colleagues are legally protected 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 search conducted without consent*

Colleagues carrying out a search are permitted to seize any item they have reasonable grounds for suspecting is a prohibited item or is evidence in relation to an offence.

When a colleague conducting a search finds:

- **Alcohol**, they will retain or dispose of the item as they see appropriate; the alcohol will not be returned to the pupil;
- **Controlled drugs**, they will deliver them to the police as soon as possible; however, they may also be disposed of if the colleague thinks there is a good reason to do so;
- **Other substances** which are not believed to be controlled drugs, they will confiscate them if they believe them to be detrimental to behaviour and discipline;
- **Stolen items**, they will deliver these to the police as soon as possible or return them to the owner if they think there is a good reason to do so;
- **Tobacco or cigarette papers**, they will retain or dispose of them; they will not be returned to the pupil;
- **Fireworks**, they will be retained or disposed of, but not returned to the pupil;
- A **pornographic image**, they will dispose of the image unless there are reasonable grounds to suspect that its possession constitutes a specified offence (i.e. the image is extreme child pornography); in these cases, the colleague will deliver the image to the police as soon as possible;
- An item that has been, or is likely to be, **used to commit an offence or to cause personal injury or damage to property**, they will deliver the item to the police, return the item to the owner, or retain or dispose of the item;
- **Weapons or items which are evidence of an offence**, they will pass the item to the police as soon as possible.

It is up for the **Head of School** to decide whether there is a 'good reason' not to deliver stolen items or controlled drugs to the police. In determining what a good reason is, the **Head of School** will take into account all relevant circumstances and use their professional judgement to determine whether they can safely dispose of the item.

Where the **Head of School** is unsure of the legal status of a substance and has reason to believe it may be a controlled drug, the item will be treated as such.

In relation to stolen items, the police will not be involved in dealing with low-value items (e.g. pencil cases); however, it may be appropriate for the school to contact the police if high-value items (e.g. laptops) or illegal items (e.g. fireworks) are involved.

### **Other confiscation**

Colleagues have the right to temporarily confiscate or withhold items which pupils are not permitted in school or disrupt the learning environment. This includes items that contravene or undermine the uniform policy. Such items may be withheld until the end of the lesson then returned to the pupil.

Items that persistently disrupt the learning, contravene the uniform policy or cause a colleague concern should be referred to the **Assistant Headteacher (Inclusion)** at the next available opportunity e.g. break, lunch, end of day. Such items may be returned to the pupil at the end of the



day or the parent may be requested to attend school for collection at the discretion of the **Assistant Headteacher**.

## **Electronic devices**

If an electronic device that is prohibited by the school rules or that is reasonably suspected to have been, or is likely to be, used to commit an offence or cause personal injury or damage to property is found during a search, the colleague is permitted to examine any data or files on the device where there is good reason to do so.

Parental consent is not required in order to search a pupil's phone if it has been seized in a 'without consent' search.

Colleagues have the authority to delete data or files if they think there is a good reason to do so, unless the device is suspected to be relevant to an offence, or is a pornographic image of a child or an extreme pornographic image; in these cases, the device will be given to the police and files and data will not be deleted from the device prior to doing this.

In determining what a good reason is, the colleague will reasonably suspect that the data or file on the device has been, or could be, used to cause harm, to disrupt teaching or break the school rules.

Any electronic device that has been seized which is prohibited by the school rules, and there are reasonable grounds to suspect that it contains evidence relating to an offence, will be given to the police as soon as possible.

If a colleague does not find any material they suspect is evidence in relation to an offence, and decides to not give the device to the police, they are permitted to decide whether it is appropriate to delete any files or data from the device or retain the device as evidence of a breach of school discipline.

## **Parental consent**

The school is not required to inform parents before a search takes place or to seek their consent to search their child.

The **Head of School** will inform the individual pupil's parents where alcohol, illegal drugs or potentially harmful substances are found via a **phone call**, though this is not a legal obligation.

Complaints about screening or searching will be dealt with in line with the school's complaints procedures.

## **Enforcement**

All colleagues are expected to act in accordance with this policy.

Any breach of this policy will be dealt with in line with the trust's Disciplinary Policy.

## **Monitoring and review**

This policy will be reviewed on an annual basis by the **Head of School**.

November 2019 BBL



## EQUALITIES

*We recognise that our pupils bring with them a wide variety of behaviours influenced by life experiences outside school. We aim to respond to each case professionally, objectively and compassionately. We are sensitive when working with children and families with specific needs and experiences and we continuously seek ways to promote successful partnerships. The basis of differentiation will vary dependant on the needs of each case but we will take into account the views of parents and families, colleagues and external agencies together with any Statement of Special Educational Need or Education, Health and Care Plan. We will also ensure compliance with the Trust's Equality Policy taking into account pupils with protected characteristics and making reasonable adjustments for pupils with a disability within the meaning of the Equality Act 2010. Both the school and Trust respects the Public Sector Equality Duty (PSED) that requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. By following the Trust's Equality Policy, the school seeks to eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by such legislation.*

## DATA PROTECTION

*Rye Community Primary School [The Academy] processes personal data in accordance with the data protection principles embodied in the General Data Protection Regulations (GDPR) and the Data Protection Act 2018. The Academy complies with the requirements of the data protection legislation as detailed in the Trust Data Protection Policy.*

*All colleagues are aware of the principles of data protection and will not process personal data unless necessary. The Academy safeguards the personal data it collects through the operation of the Trust's data protection policy and processes and the IT policy. In addition, the Academy has taken steps to ensure that all its contracts that process data have the GDPR compliant provisions.*