

# Leek High School



## Searching, Screening and Confiscation Policy

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## **Introduction**

Leek High School appreciates that students 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 students or staff to unnecessary risks.

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

## 1. Legal framework

- 1.1. This policy has due regard to legislation and statutory guidance, including, but not limited to, the following:
  - Health and Safety at Work Act 1974
  - Education Act 1996
  - Education and Inspections Act 2006
  - The Leek High Schools (Specification and Disposal of Articles) Regulations 2012
  - The Leek High 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 Leek High Schools'
- 1.2. This policy operates in conjunction with the following school policies:
  - Behaviour Policy
  - Drugs and Alcohol Policy
  - Restrictive Physical Intervention Policy
  - Online Safety Policy

## 2. Screening

- 2.1. Under the school's statutory power to make rules on student behaviour and the duty to manage the safety of staff, students and visitors, the Leek High School imposes a requirement that students may need to undergo screening.
- 2.2. All members of staff have the authority screen students.
- 2.3. The screening of students 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.
- 2.4. If a student refuses to be screened, the school has the right to refuse to allow that student on the premises. This does not mean that the school has excluded that student and the student's absence will be treated as unauthorised.
- 2.5. Screening without physical contact is not subject to the same conditions as those that apply to the powers to search without consent.

## 3. Searching with consent

- 3.1. Any member of staff has the authority to search students for any item with their consent.

- 3.2. Formal written consent is not required for this sort of search.
- 3.3. Items banned from school premises are outlined in clause 5.2 of this policy.
- 3.4. If a member of staff suspects a student is in possession of a banned item, the student will be instructed to turn out their pockets and/or bag. If the student refuses to do this, the staff member will apply an appropriate punishment in line with the school's **Behaviour Policy**.

#### **4. Authorising members of staff**

- 4.1. Only the **Headteacher** and authorised members of staff have the authority search students without their consent.
- 4.2. The **Headteacher** is responsible for deciding which staff are authorised to carry out searches. The staff currently authorised by the Headteacher with these powers are:

**Assistant Headteachers**

**Heads of Year**

**The Inclusion Manager**

- 4.3. Staff members may refuse to carry out a search.
- 4.4. When deciding which staff will be authorised to undertake searches under these powers the completion of mandatory training by staff is not a requirement because searches must never involve physical contact with a student or physical restraint of a student.

#### **5. Searching without consent**

- 5.1. The **Headteacher** and authorised staff have the statutory power to search students or their possessions, without consent, where they have reasonable grounds for suspecting that the student may be in possession of a banned item. The staff member will decide what constitutes as reasonable grounds for suspicion on a case-by-case basis.
- 5.2. Banned items are:
  - Alcohol
  - Drugs (illegal drugs and 'legal highs') and drug paraphernalia
  - Fireworks
  - Knives, blades or weapons
  - Pornographic images (printed or electronic)
  - Products used for smoking (e.g. tobacco, cigarette papers, vaping devices, vaping fluid)
  - Stolen items

- Any item that a 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 the property of, any person.
- 5.3. Students will only be searched by staff members who are the same identifying gender as them and all searches will be witnessed by another member of staff who will be, where possible, the same identifying gender as the student being searched.
  - 5.4. A search will only be conducted by a person who is not the same identifying gender as the student being searched, or without a witness, where the staff member reasonably believes that there is a risk of serious harm if the search is not conducted immediately. Under these exceptional circumstances, the member of staff conducting the search will consider that a student's expectation of privacy increases as they get older.
  - 5.5. The school may use CCTV footage to decide whether to conduct a search for an item.
  - 5.6. Searches without consent will only be carried out on the school premises or, if elsewhere, where the member of staff conducting the search has lawful control or charge of the student, e.g. on an organised school trip. Where possible the student should be taken out of public view to protect their privacy and prevent embarrassment.

## 6. During the search

- 6.1. 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 student has or appears to have control, including lockers and bags.
- 6.2. The member of staff conducting a search will not ask the student being searched to remove any clothing other than outer clothing. The student should not generally be asked to remove sensitive items of clothing associated with religious beliefs such as veils and turbans; if it is necessary to ask that such items are removed this must be done out of public view.
- 6.3. A student's possessions will 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 if the search is not conducted immediately.
- 6.4. 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.

- 6.5. If a student does not consent to a search, or withdraws consent, then they may be subject to a search without consent but only for banned items.
- 6.6. Staff may use such force as is reasonable, given the circumstances, when conducting a search for banned items, but will not use force to search for items banned only under school rules.

## 7. After the search

- 7.1. School staff can confiscate, retain or dispose of a student's property where it is reasonable to do so.
- 7.2. School staff can use their discretion to confiscate, retain and/or destroy any item found due to a search with the student'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.
- 7.3. Staff 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.
- 7.4. The member of staff carrying out a search may seize any item they have reasonable grounds for suspecting is a banned item or is evidence in relation to an offence.
- 7.5. When a member of staff 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 student.
  - **Controlled drugs and/or drug paraphernalia**, they will deliver them to the police as soon as possible; however, they may also be disposed of if the staff member 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.
  - **Smoking products**, they will retain or dispose of them; they will not be returned to the student.
  - **Fireworks**, they will be retained or disposed of, but not returned to the student.
  - **A pornographic image**, they will supervise the deletion of the image/disposal of the image unless there are reasonable grounds to suspect that its possession constitutes a specified

offence (i.e. the image is of a child); in these cases, the staff member will contact 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.
  - **Knives, blades, weapons or items which are evidence of an offence**, they will pass the item to the police as soon as possible.
- 7.6. It is for authorised staff 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 member of staff will take into account all relevant circumstances and use their professional judgement to determine whether they can safely dispose of the item.
- 7.7. Where the member of staff 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.
- 7.8. 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. mobile phones) or illegal items (e.g. fireworks) are involved.
- 7.9. Details of the search should be documented as soon as possible within the student's behaviour record. The information that must be recorded is:
- Time, date and location of the search
  - Grounds for the search
  - Result of search (stating clearly any items that were confiscated)
  - Details of all staff involved

## 8. Electronic devices

- 8.1. If an electronic device that is banned 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 staff member is permitted to examine any data or files on the device where there is good reason to do so.
- 8.2. Parental consent is not required to search a student's mobile phone if it has been seized in a 'without consent' search.
- 8.3. Staff 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.

- 8.4. In determining what a good reason is, the member of staff 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.
- 8.5. Any electronic device that has been seized which is banned by 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.
- 8.6. If a member of staff 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.

## **9. Parental consent**

- 9.1. The school **is not** required to inform parents/carers before a search takes place or to seek their consent to search their child.
- 9.2. The **Headteacher** or a the authorised member of staff who carried out the search will inform the individual student's parents/carers where alcohol, illegal drugs or potentially harmful substances are found via a phone call, though this is not a legal obligation.
- 9.3. Complaints about screening or searching will be dealt with in line with the school's complaints procedures.

## **10. Enforcement**

- 10.1. Every member of staff is expected to act in accordance with this policy.
- 10.2. Any breach of this policy by school staff will be dealt with in line with staff disciplinary procedures.

## **11. Monitoring and review**

- 11.1. This policy will be reviewed in full by the **Local Governing Body** on an annual basis.
- 11.2. Any significant changes to this policy will be communicated to all members of school staff, students and parents/carers.



ADOPTED BY THE GOVERNORS ON: 04 February 2021

POLICY REVIEW DATE: February 2022

Signed by:

|       |                    |             |
|-------|--------------------|-------------|
| _____ | Headteacher        | Date: _____ |
| _____ | Chair of governors | Date: _____ |