



## **Liskeard School and Community College**

### **SCREENING, SEARCHING AND CONFISCATION POLICY**

**July 2021**

#### **Notice to staff using a paper copy of this policy**

The school website and Learn Liskeard hold the most recent procedural version of this guidance. Staff must ensure they are using the most recent guidance

#### **Related Policies**

- Behaviour for Learning Policy
- CCTV
- Use of Force to Control or Restrain Pupils
- Drugs Policy
- Educational Visits

Written January 2012

### Reader Information and Asset Registration

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### Document Review History

<b>Version No.</b>	<b>Type of Change</b>	<b>Date</b>	<b>Originator of Change</b>	<b>Description of Change</b>
2	Minor	Oct 2012	R. Quaintance	Specific use of the term tobacco
3	Minor	Dec 2013	R. Quaintance	Date
4	Minor	Nov 2014	R. Quaintance	Use of force to control or restrain pupils – added to related policies; and Educational Visits policy.
5	Minor	Nov 2015	R. Quaintance	Dates plus reference to e-cigarettes.
6	Minor	Sept 2016	R. Quaintance	Link to UK Council for Child Internet Safety's advice on responding to 'sexting in schools and college'.
7	Minor	Nov 2017	R. Quaintance	Date
8	Minor	July 2019	R. Quaintance	Date Small updates as ref policy grid.
9	Minor	July 2020	R. Quaintance	Date Recording proforma added as appendix 1
10	Minor	July 2021	C. Knipe	Change of referenced policy name – Positive Handling Policy

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# Liskeard School Screening, Searching and Confiscation Policy

## 1 Key points

- 1.1 School staff can search a pupil for any item banned under the school rules, if the pupil agrees.<sup>1</sup>
- 1.2 Head teachers and staff authorised by them have a statutory power to search pupils or their possessions, without consent, where they suspect the pupil has certain prohibited items. The items that can be searched for under this power are knives or weapons, alcohol, tobacco and lighters including e-cigarettes, illegal drugs and “legal highs” and stolen items.
- 1.3 School staff can seize any banned or prohibited item found as a result of a search or which they consider harmful or detrimental to school discipline.

## 2 Screening

Liskeard School and Community College does not currently use any walk through or other screening devices.

## 3 Searching with consent

- 3.1 Schools' common law powers to search:
  - 3.1.1 School staff<sup>2</sup> can search pupils **with their consent**<sup>3</sup> for any item which is banned by the school rules.
- 3.2 Liskeard School and Community College is not required to have formal written consent from the pupil for this sort of search – it is enough for the teacher to ask the pupil to turn out his or her pockets or if the teacher can look in the pupil's bag or locker and for the pupil to agree.
- 3.3 It is made clear in Liskeard School and Community College's behaviour policy and in communications to parents and pupils what items are banned, as identified in 13.8 and 13.9
- 3.4 If a member of staff suspects a pupil has a banned item in his/her possession, they can instruct the pupil to turn out his or her pockets or bag and if the pupil refuses, the teacher can apply an appropriate punishment as set out in the school's behaviour policy.
- 3.5 A pupil refusing to co-operate with such a search raises the same kind of issues as where a pupil refuses to stay in a detention or refuses to stop any other unacceptable behaviour when instructed by a member of staff – in such circumstances, the school can apply an appropriate disciplinary penalty.

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<sup>1</sup> The ability to give consent may be influenced by the child's age or other factors

<sup>2</sup> School staff here means a teacher or someone who has lawful control or charge of the child.

<sup>3</sup> The ability to give consent may be influenced by the child's age or other factors.

## 4 Searching without consent

- 4.1 What the law says:
  - 4.1.1 What can be searched for:
    - i. Knives or weapons, alcohol, tobacco and lighters, illegal drugs and stolen items (referred to in the legislation as 'prohibited items').<sup>4</sup>
- 4.2 Can I search?
  - 4.2.1 Yes, if you are a head teacher or a member of school staff<sup>5</sup> and authorised by the head teacher. But:
    - i. You must be the same sex as the pupil being searched; and
    - ii. There must be a witness (also a staff member) and, if at all possible, they should be the same gender as the pupil being searched. For example, it is possible for a female teacher to witness a search of a male pupil where there is only one male member of staff in a school or taking part in a school trip.
- 4.3 When can I search?
  - 4.3.1 If you have reasonable grounds for suspecting that a pupil is in possession of a prohibited item.
  - 4.3.2 The law also says what must be done with prohibited items which are seized following a search. (See Section 12)

## 5 Authorising members of staff

- 5.1 Head teachers should decide who to authorise to use these powers. There is no requirement to provide authorisation in writing. **In Liskeard School and Community College authority to search has been given to the head teacher, deputy head teacher, assistant head teachers, heads of year and assistant heads of year and the designated leader on school trips. Designated staff can decline to undertake a search.**

## 6 Training for school staff

- 6.1 There is no legal requirement for a head teacher or authorised member of staff to be trained before undertaking a 'without consent' search.
- 6.2 When designating a member of staff to undertake searches under these powers, the head teacher should consider whether the member of staff requires any additional training to enable them to carry out their responsibilities.

## 7 Establishing grounds for a search

- 7.1 Teachers can only undertake a search without consent if they have reasonable grounds for suspecting that a pupil may have in his or her possession a prohibited item. The teacher must decide in each particular case what constitutes reasonable grounds 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.

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<sup>4</sup> Section 550ZA of the Education Act 1996. These provisions also include a power to make regulations to add to the list of prohibited items. No regulations have yet been made, but it is intended that regulations will be made to add to the list of 'prohibited items' as described above.

<sup>5</sup> Member of school staff means any teacher who works at the school, and any other person who with the authority of the head teacher has lawful control or charge of pupils for whom education is being provided at the school.

- 7.2 The powers allow school staff to search regardless of whether the pupil is found after the search to have that item. This includes circumstances where staff suspect a pupil of having items such as illegal drugs or stolen property which are later found not to be illegal or stolen.
- 7.3 School staff can view CCTV footage in order to make a decision as to whether to conduct a search for an item.<sup>6</sup>

## 8 Location of search

- 8.1 Searches without consent can only be carried out on the school premises or, if elsewhere, where the member of staff has lawful control or charge of the pupil, or for example on school trips in England or in training settings.
- 8.2 Legally, the powers only apply to English schools.

## 9 During the search

- 9.1 Extent of the search – clothes, possessions, desks and lockers.
- 9.2 What the law says:
  - 9.2.1 The person conducting the search may not require the pupil to remove any clothing other than outer clothing.
  - 9.2.2 ‘Outer clothing’ means clothing that is not worn next to the skin or immediately over a garment that is being worn as underwear but ‘outer clothing’ includes hats; shoes; boots; gloves and scarves.
  - 9.2.3 ‘Possessions’ means any goods over which the pupil has or appears to have control – this includes desks, lockers and bags.
  - 9.2.4 A pupil’s possessions can only be searched in the **presence** of the pupil and **another** member of staff.
- 9.3 The power to search with or 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.
- 9.4 Prior to conducting the search the member of staff must inform a member of the Senior Leadership Team and **complete** a written report afterwards.

## 10 Lockers and desks

- 10.1 Under common law powers, Liskeard School and Community College is able to search lockers and desks for any item provided the pupil agrees. It is a condition of having a locker or desk that the pupil consents to have these searched for any item whether or not the pupil is present.

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<sup>6</sup> School staff must ensure they act in accordance with the Data Protection Act 1998, when doing so. Guidance on this is provided by the Information Commissioner and can be found at [http://www.ico.gov.uk/for\\_organisations/data\\_protection.aspx](http://www.ico.gov.uk/for_organisations/data_protection.aspx)

- 10.2 If a pupil does not consent to a search (or withdraws consent having signed a consent form) then it is possible to conduct a search without consent but only for the 'prohibited items' listed above.

## 11 Use of force

- 11.1 Reasonable force may be used by the person conducting the search. Separate advice is available on teachers' power to use force. Refer to the Positive Handling Policy for further guidance.<sup>7</sup>

## 12 After the search

- 12.1 The power to seize and confiscate items – general
- 12.1.1 Schools' 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. This will need to be authorised by a member of the Senior Leadership Team.
- 12.2 The member of 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 to the police.
- 12.3 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.
- 12.4 Staff involved should write up an account of the search and forward to a member of the Senior Leadership Team – see appendix 1 for proforma.

## 13 Items found as a result of a 'without consent' search

- 13.1 What the law says:
- 13.1.1 A person carrying out a search can seize anything they have reasonable grounds for suspecting is a prohibited item (that is a weapon/knife; alcohol; illegal drugs or stolen items) or is evidence in relation to an offence.
- 13.1.2 Where a person conducting a search finds **alcohol**, they may retain or dispose of it.
- 13.1.3 Where they find **controlled drugs**, these must be delivered to the police as soon as possible unless there is a good reason not to do so – in which case the drugs must be disposed of as per the Drug Use and Misuse Policy.
- 13.1.4 Where they find **other substances** which are not believed to be controlled drugs these can be confiscated where a teacher believes them to be harmful or detrimental to good order and discipline. This would include, for example, so called 'legal highs'. Where staff suspect a substance may be

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<sup>7</sup> Positive Handling Policy, available to view on the school website.

- controlled they should treat them as controlled drugs as outlined above.
- 13.1.5 Where they find **stolen items**, these must be delivered to the police unless there is a good reason not to do so – in which case the stolen item should be returned to the owner. These stolen items may be retained or disposed of if returning them to their owner is not practicable.
  - 13.1.6 In determining what is a ‘good reason’ for not delivering **controlled drugs or stolen items** to the police the member of staff must have regard to guidance issued by the Secretary of State<sup>8</sup> (see paragraphs 13.2 to 13.5 below)
  - 13.1.7 Any **weapons or items which are evidence of an offence** must be passed to the police as soon as possible.
  - 13.1.8 It is up to teachers to decide whether there is a good reason not to deliver stolen items or controlled drugs to the police.
- 13.2 **In determining what is a ‘good reason’, the member of staff should take into account all relevant circumstances and use their professional judgement to determine whether they can safely dispose of a seized article.**
- 13.3 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. Refer to Drugs Policy.
- 13.4 With regard to stolen items, it would not be reasonable or desirable to involve the police in dealing with low value items such as pencil cases. However, school staff may judge it appropriate to contact the police if the items are valuable (e.g. iPods/laptops) or illegal (e.g. alcohol/fireworks).
- 13.5 Schools can dispose of alcohol and cigarettes as they think appropriate but this does not include returning it to the pupil.

## 14 Telling parents and dealing with complaints

- 14.1 Schools are not required to inform parents before a search takes place or to seek their consent to search their child.
  - 14.1.1 There is no legal requirement to make or keep a record of a search but this school’s policy is to keep a record.
  - 14.1.2 Liskeard School and Community College will inform the individual pupil’s parents or guardians where alcohol, illegal drugs or potentially harmful substances are found, though there is no legal requirement to do so.
  - 14.1.3 Complaints about screening or searching should be dealt with through the normal school complaints procedure.

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<sup>8</sup> Section 550ZC (6) Education Act 1996



## **Appendix 1**

### **Screening, searching and confiscation report**

Date	
Name of student	
Members of staff conducting the search	1. 2.
Details of search (delete as appropriate)	Person   Bag   Locker
Was student consent given for the search	Yes / No
Reason for search	
Prohibited items found	
Actions taken (including disposal of items)	
Persons informed	

Please forward a copy of the completed report to CSK and RRQ