

Thomas Telford School



Searching and Confiscation Policy

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This document sets out the process and procedures for dealing with screening, searching and confiscation in school.

Thomas Telford School aims to use the searching, screening and confiscation powers appropriately to ensure student and staff welfare is protected and establish an environment where everyone is safe. Before searching is conducted, Thomas Telford School staff will consider the Obligations held under the European Convention on Human Rights. Under Article 8, students have a right to respect for their private life. In the context of these rights and obligations, this means that students 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 must be justified and proportionate. The powers to search in the Education Act 1996 are compatible with Article 8.

Searching

Searching can play a critical role in ensuring that schools are safe environments for all students and staff. It is a vital measure to safeguard and promote staff and student welfare, and to maintain high standards of behaviour through which students can learn and thrive. The Headmaster will authorise members of staff to use the statutory power to search a student or their possessions where they have reasonable grounds to suspect that the student may have a prohibited item listed below or any other item that the school rules identify as an item that may be searched for.

The list of prohibited items as set out by [Searching, Screening and Confiscation guidance July 2022](#) is:

- Knives and weapons;
- Alcohol
- Illegal drugs
- Stolen items
- any article that the 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 to property of; any person (including the student).
- an article specified in regulations:
 - tobacco and cigarette papers
 - fireworks; and
 - pornographic images.

These items are set out in the schools Behaviour Policy and may be added to at the Headmasters discretion. The Behaviour Policy is available to all staff, students and parents on the school website. Being in possession of any of these items must be reported to the DSL as this information may play a vital role in identifying students who may need to access additional support. When exercising the powers to search staff will consider the following:

- Age of the student
- Individual needs or learning difficulties
- Any SEN requirements

This information will be considered when setting out the approach to the search, and in the explanation given for the search taking place.

It is only the Headmaster, or a member of staff authorised by the Headmaster that can carry out a search. The Headmaster will have oversight of the practices, procedures and protocols to ensure a

culture of safe, proportionate and appropriate searching is maintained. This aims to safeguard the welfare of all staff and students with support from the designated safeguarding lead. Under the guidance of the designated safeguarding lead, authorised staff will be trained in how to lawfully and safely search a student, whether they have given permission or not. All staff will be made aware of the policy and set procedures for searching at Thomas Telford School.

Searching Protocol

Upon receiving information that meets the criteria set above, under common law school staff have the power to search for any item if the student agrees.

Before searching

A member of staff will explain to the student the reason for the search and gain verbal agreement of the search taking place. Where possible this will take place with two members of staff, if the member of staff deems it as a matter of urgency, then they can make the decision in isolation.

If the student refuses to cooperate, the member of staff may sanction the student in line with the school's Behaviour Policy, ensuring they are responding to the behaviour consistently and fairly.

If the search is not deemed as urgent the member of staff will seek advice from the Headteacher or Designated Safeguard Lead who may have more information on the student.

If the student continues to refuse the member of staff will assess whether it is appropriate to use reasonable force to search for any prohibited items. The decision to use force will be made on a case by case basis and will always involve consultation with another member of staff. The decision will be based upon whether the search will prevent the student harming themselves or others, damaging property or causing disorder.

Location

The search, where possible, will take place away from other students and preferably in a member of SMT's office.

Who can conduct the search?

The search will be conducted by a member of staff of the same sex as the student. There must also be another member of staff present. There is a limited exception to this rule. This is that a member of staff can search a student of the opposite sex and/or without a witness present only:

- if the member of staff carrying out the search reasonably believes there is risk that serious harm will be caused to a person if the search is not carried out as a matter of urgency; and
- in the time available, it is not reasonably practicable for the search to be carried out by a member of staff who is same sex as the student or it is not reasonably practicable for the search to be carried out in the presence of another member of staff.

When a member of staff conducts a search without a witness they should immediately report this to another member of staff, and ensure a record of the search is kept.

The extent of the search

A member of staff may search a student's outer clothing, pockets, possessions, or lockers.

The person conducting the search will not require the student to remove any clothing other than outer clothing. 'Outer clothing' means any item of clothing that is not worn wholly next to the skin or immediately over a garment that is being worn as underwear, as well as hats, shoes, boots or scarves.

'Possessions' means any goods over which the student has or appears to have control - this includes lockers and bags.

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 to a person if the search is not conducted immediately and where it is not reasonably practicable to summon another member of staff.

The member of staff may use a metal detector to assist with the search.

Strip Searching

A strip search is classified as a search involving the removal of more than outer clothing. Strip searches on school premises can only be carried out by police officers under the Police and Criminal Evidence Act 1984 (PACE) Code A and in accordance with the Police and Criminal Evidence Act 1984 (PACE) Code C. While the decision to undertake the strip search itself and its conduct are police matters, school staff retain a duty of care to the student(s) involved and should advocate for student wellbeing at all times.

The Headteacher alongside the Designated Safeguarding Lead will make the final decision on calling police in to conduct a strip search. Within this process they will consider and assess and balance the risk of a potential strip search on the student's mental and physical wellbeing and the risk of not recovering the suspected item. Staff will consider whether introducing the potential for a strip search through police involvement is absolutely necessary, and will always ensure that other appropriate, less invasive approaches have been exhausted.

Once the police are on school premises, the decision on whether to conduct a strip search lies solely with them, and the role of the school is to advocate for the safety and wellbeing of the student(s) involved.

Unless there is an immediate risk of harm and where reasonably possible, staff will inform a parent of the student suspected of concealing an item in advance of the search, even if the parent is not acting as the appropriate adult. Parents will always be informed by a staff member once a strip search has taken place.

All searches will be reported to the Lead Designated Safeguarding Lead who will record the details, including reasoning for the search being conducted.

After-care following a strip search.

A member of the pastoral or safeguarding team, irrespective of whether the suspected item is found, will give students at Thomas Telford School appropriate support. If an item is found, the headmaster or pastoral lead may decide it to be a police matter. However the safeguarding of the student involved will be central in the support, this will be controlled by a designated safeguarding lead.

Where an item is not found, the safeguarding of the student will be at the centre of support following a strip search. The designated safeguarding lead will support the student in dealing with the

experience of being searched, and discuss wider issues that may have informed the decision to conduct a strip search in the first place.

In both cases, students will have an opportunity to express their views regarding the strip search and the events surrounding it. The designated safeguarding lead will collate all data and information, in order to give particular consideration to any students who have been strip searched more than once and/or groups of students who are more likely to be subjected to strip searching with unusual frequency, and consider preventative approaches.

After a search

Whether or not any items have been found as a result of any search, Thomas Telford School staff will consider whether the reasons for the search, the search itself, or the outcome of the search give cause to suspect that the student is suffering, or is likely to suffer harm, and/or whether any specific support is needed. Staff conducting a search will report any concerns immediately to the Lead DSL or Headmaster. They will consider if pastoral support, an Early Help intervention or a referral to children's social care is appropriate. If any prohibited items are found during the search, the member of staff should follow the guidance set out in the **Confiscation** section of this policy.

If a student is found to be in possession of a prohibited item listed in paragraph 3, then the staff member will alert the designated safeguarding lead (or deputy) and the student should be sanctioned in line with the school's behaviour policy to ensure consistency of approach.

See our Child Protection and Safeguarding Policy, KCSIE 2022

Recording Searches

Any search by a member of staff for a prohibited item listed in paragraph 3, items banned by the school and all searches conducted by police officers will be recorded, including whether or not an item is found. This will allow the safeguarding team to effectively analyse school specific data and inform any response.

Within the incident report, staff must include the following:

- the date, time and location of the search;
- which student was searched;
- who conducted the search and any other adults or students present;
- what was being searched for;
- the reason for searching;
- what items, if any, were found; and
- what follow-up action was taken as a consequence of the search.

The Lead DSL will consider the data being presented on a termly basis and make informed decisions, in discussion with the Headteacher, on whether any actions are required.

Informing Parents

Parents will always be informed of any search for a prohibited item listed in paragraph 3 and that has taken place, and the outcome of the search as soon as is practicable. A member of staff will inform the parents of what, if anything, has been confiscated and the resulting action the school has taken,

including any sanctions applied. The member of staff will also consider that in some circumstances it might also be necessary to inform parents of a search for an item banned by the school policy.

Any complaints about searching, screening or confiscation should be dealt with through the normal school complaints procedure.

Confiscation

Items found as a result of a search

An authorised staff member carrying out a search can confiscate any item that they have reasonable grounds for suspecting:

- poses a risk to staff or students;
- is prohibited, or identified in the school rules for which a search can be made (see school behaviour policy); or
- is evidence in relation to an offence.

Prohibited or illegal items

If found **controlled drugs** will be delivered to the police as soon as possible unless there is a good reason not to do so. The Headteacher will decide if the name of the student is to be handed to the police, this judgement will be made on case by case basis. In these cases, the member of staff must safely dispose of the drugs. In determining whether there is a good reason to dispose of controlled drugs, the member of staff must have regard to the following guidance below issued by the Secretary of State.

The member of staff should take into account all relevant circumstances and use their professional judgement to determine whether they can safely dispose of the controlled drug. When 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. If the member of staff is in doubt about the safe disposal of controlled drugs, they will deliver them to the police.

Other substances which are not believed to be controlled will also be delivered to the police, or disposed of as above, if the member of staff believes they could be harmful.

Where a person conducting a search finds alcohol, tobacco, cigarette papers or fireworks, they may retain or dispose of them as they think appropriate but will not return them to the student. The member of staff will make contact with parents and inform them of what has been found.

If a member of staff finds a pornographic image, they may dispose of the image unless they have reasonable grounds to suspect that its possession constitutes a specified offence (i.e. it is extreme or an indecent image of a child) in which case it must be delivered to the police as soon as reasonably practicable. Members of staff should never intentionally view any indecent image of a child (also sometimes known as nude or semi-nude images). Staff must never copy, print, share, store or save such images.

Where a member of staff finds stolen items, these must be delivered to the police as soon as reasonably practicable. However, if there is good reason to do so, the member of staff may also return the item to the owner, or retain or dispose of it if returning them to their owner is not practicable. In determining whether there is a good reason to return the stolen item to its owner or retain or dispose of the item, the member of staff must have regard to the following guidance.

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 seized article. In taking into account the relevant circumstances, the member of staff will consider the following:

- the value of the item - it would not be reasonable or desirable to involve the police in dealing with low value items such as pencil cases, though school staff may judge it appropriate to contact the police if the items are valuable;
- whether the item is banned by the school;
- whether retaining or returning the item to the owner may place any person at risk of harm; and
- whether the item can be disposed of safely.

Any **weapons or items which are evidence of a suspected offence** must be passed to the police as soon as possible.

Items that have been (or are likely to be) used to commit an offence or to cause personal injury or damage to property should be delivered to the police as soon as reasonably practicable, returned to the owner, retained or disposed of. In deciding what to do with such an item, the member of staff must have regard to the guidance issued by the Secretary of State as below.

The member of staff should take into account all relevant circumstances and use their professional judgement to determine whether the item should be delivered to the police, retained, returned to the owner or disposed of. In taking into account all relevant circumstances the member of staff should consider:

- whether it is safe to dispose of the item; and
- whether and when it is safe to return the item.

If a member staff suspects a confiscated item has been used to commit an offence or is evidence in relation to an offence, the item should be delivered to the police.

Members of staff should use their judgement to decide to return, retain or dispose of any other items banned under the school rules. In deciding what to do with such an item, the member of staff must have regard to the guidance issued by the Secretary of State as below. The member of staff should take into account all relevant circumstances and use their professional judgement to determine whether they can safely dispose of the seized item. In taking into account all relevant circumstances, the member of staff should consider:

- the value of the item;
- whether it is appropriate to return the item to the student or parent; and
- whether the item is likely to continue to disrupt learning or the calm, safe and supportive environment of the school.

Electronic devices

Electronic devices, including mobile phones, can contain files or data which relate to an offence, or which may cause harm to another person. This includes, but is not limited to, indecent images of children, pornography, abusive messages, images or videos, or evidence relating to suspected criminal behaviour. As with all prohibited items, staff should first consider the appropriate safeguarding response if they find images, data or files on an electronic device that they reasonably suspect are likely to put a person at risk. Staff may examine any data or files on an electronic device they have confiscated as a result of a search, as defined earlier in this policy, if there is good reason to do so.

If the member of staff conducting the search suspects they may find an indecent image of a child (sometimes known as nude or semi-nude images), the member of staff should never intentionally view the image, and must never copy, print, share, store or save such images. When an incident might involve an indecent image of a child and/or video, the member of staff will confiscate the device, avoid looking at the device and refer the incident to the designated safeguarding lead (or deputy) as the most appropriate person to advise on the school's response.

If a member of staff finds any image, data or file that they suspect might constitute a specified offence, then they must be delivered to the police as soon as is reasonably practicable.

In exceptional circumstances members of staff may dispose of the image or data if there is a good reason to do so. In determining a 'good reason' to examine or erase the data or files, the member of staff must have regard to the following guidance issued by the Secretary of State below.

In determining whether there is a 'good reason' to examine the data or files, the member of staff should reasonably suspect that the data or file on the device has been, or could be used, to cause harm, undermine the safe environment of the school and disrupt teaching, or be used to commit an offence.

In determining whether there is a 'good reason' to erase any data or files from the device, the member of staff should consider whether the material found may constitute evidence relating to a suspected offence.

In those instances, the data or files should not be deleted, and the device must be handed to the police as soon as it is reasonably practicable. If the data or files are not suspected to be evidence in relation to an offence, a member of staff may delete the data or files if the continued existence of the data or file is likely to continue to cause harm to any person and the student and/or the parent refuses to delete the data or files themselves.

Confiscation as a disciplinary penalty

Thomas Telford School's power to discipline enables a member of staff to confiscate, retain or dispose of a student's property as a disciplinary penalty, where reasonable to do so. 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.