

1. Scope

This policy applies to all staff at Expanse Learning Wigan School (Hereafter referred to as the School).

2. Objectives

This policy is intended to explain the school's powers of screening and searching of students so that the school employees have the confidence to use them. This policy will also explain the powers the school have to seize and then confiscate any items found during a search.

3. Searching with consent

School employees can search a student with their consent for any item. The school is not required to have formal written consent from the student for this type of search, it is enough for the teacher to ask the student to turn out their pockets or if the teacher can look in the student's bag, desk or locker and for the student to agree. A student who refuses to co-operate with such a search could result in appropriate disciplinary penalties.

4. Searching without consent

Headteachers and employees authorised by them have a statutory power to search students and their possessions, without consent, where the school have reasonable grounds for suspecting that a student may have a prohibited item. Prohibited items are:

- Knives or weapons
- Alcohol
- Illegal drugs
- Stolen items
- Tobacco and cigarette papers
- Fireworks
- Pornographic images
- Any item that the school employee reasonably suspects has been, or is likely to be, used:
 - *To commit an offence, or*
 - *To cause personal injury to, or damage to the property of, any person (including the student)*
- Headteachers and authorised employees can also search for any item banned by the school rules which have been identified in the rules as an item which may be searched for.

5. Confiscation

School employees can seize any prohibited item found as a result of a search. They can also seize any item; they consider harmful or detrimental to school discipline.

6. School's obligations under the European Convention on Human Rights

Under article 8 of the European Convention on Human Rights students have a right to respect for their private life's meaning they have the right to expect reasonable level of personal privacy. However, this is not an absolute and the school can interfere with the article if it is justified and proportionate. The powers to search in the Education Act (1996) are compatible with article 8. The school will exercise these powers lawfully and will always act in accordance with article 8.

7. Screening

Students will be required to undergo screening by a hand-held metal detector even if they are not suspected of having a weapon and without the consent of the student. Any school employee can screen a student. If a student refuses to be screened they may be refused to enter the premises. Health and Safety legislation requires a school to be managed in a way which does not expose any students or employees to risks to their health and safety and this includes making reasonable rules as a condition of admittance.

If a student fails to comply, and the school refuses admission, the student hasn't been excluded and their absence will be treated as unauthorised. This type of screening, without physical contact, is not subject to the same conditions as apply to the powers to search without consent.

8. Under what circumstances?

The employee conducting the search must be the same sex as the student, and there must be a witness (also an employee) and, if possible, they should be the same sex as the student being searched. There is a limited exception to this rule. An employee can carry out a search of a student of the opposite sex to them and / or without a witness present, but only where they reasonably believe that 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.

9. Authorising employees

The headteacher will decide who to authorise to use these powers. There is no requirement that authorisation must be provided in writing. The school will consider if any employees require additional training to enable them to carry out their responsibilities.

10. Establishing grounds for a search

The school employee must decide in each particular case what constitutes reasonable grounds for suspicion. For example, they may have heard other students talking about the item or they might notice a student behaving in a way that causes them to suspect that the student is concealing prohibited items.

This policy allows employees to search regardless of whether a student is found after the search to have that item. The school may utilise CCTV footage in order to make a decision as to whether to conduct a search for an item.

11. Location of a search

Searches without consent can only be carried out on the school premises or, if elsewhere, where the school employee has lawful control or charge of the student, for example on school trips in England or in training settings. The powers apply in England.

12. Extent of the search

The employee conducting the search may not require the student to remove any item of clothing other than outer clothing. '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, gloves and scarves. 'Possessions' mean any goods over which the student has or appears to have control, this includes desks, lockers and bags.

A student's possession can only be searched in the presence of the student and another employee, 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.

If a student 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.

13. Use of force

School employees can use such force as is reasonable given the circumstances when conducting a search for knives or weapons, alcohol, illegal drugs, stolen items, tobacco and cigarette papers, fireworks, pornographic images or articles that have been or could be used to commit an offence or harm. Such force cannot be used to search for items banned under the school rules.

14. The power to seize and confiscate items

The school has the power to discipline, as circumscribed by section 91 of the education and inspections Act 2006, enabling school employees to confiscate, retain or dispose of a student's property as a disciplinary penalty, where reasonable to do so.

Employees will 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 reasonably suspected to be an offensive weapon it will be passed to the police.

15. Items found as a result of a 'without consent' search

An employee carrying out a search will seize anything they have reasonable grounds for suspecting is a prohibited item or is evidence in relation to an offence. Where an employee finds alcohol, they will dispose of it and will not be returned to the student:

- If the school find **controlled drugs**, they will be delivered to the police as soon as possible but may be disposed of if the employee thinks there is good reason to do so.
- Where an employee finds **other substances**, which are not believed to be controlled drugs can be confiscated if they are believed to be harmful or detrimental to good order and discipline. This would include, for example, so called legal highs.
- Where an employee finds **stolen items**, these will be delivered to the police as soon as reasonably practicable and will not be returned to the owner.
- Where an employee finds **tobacco or cigarette papers** they may retain or dispose of them. As with alcohol, this means that the school can dispose of tobacco and cigarette papers as they think appropriate and will not be returned to the student.
- **Fireworks** found as a result of a search will be confiscated and disposed of and will not be returned to the student.
- If an employee finds 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. it is extreme or child pornography) in which case it will be delivered to the police as soon as reasonably practicable.
- Where an article that has been used to commit an offence or to cause personal injury or damage to property may be delivered to the police. It may also be disposed of by the school.
- Any **weapons or items that are evidence of an offence** will be passed to the police as soon as possible.
- Where an employee finds **an item that is banned under the school rules**, they will take into account all the relevant circumstances and use their professional judgement to decide whether to return it to its owner, retain it or dispose of it.

16. Statutory guidance for dealing with electronic devices

Where an employee finds an electronic device that is prohibited by the school rules or that they reasonably suspects has been, or is likely to be, used to commit an offence or cause personal injury or damage to property, they may examine any data or files on the device where there is a good reason to do so. They may also delete data or files if they think there is a good reason to do so, unless they are going to give the device to the police. There is no need to have parental consent to search through a young person's mobile phone if it has been seized in a lawful 'without consent' search and is prohibited by the school rules or is reasonably suspected of being, or being likely to be, used to commit an offence or cause personal injury or damage to property.

The employee must have regard to the following guidance issued by the Secretary of State when determining what is a "good reason" for examining or erasing the contents of an electronic device:

- In determining a 'good reason' to examine or erase the data or files the employee must reasonably suspect that the data or file on the device in question has been, or could be, used to cause harm, to disrupt teaching or break the school rules.
- If an electronic device that is prohibited by the school rules has been seized and the employee has reasonable grounds to suspect that it contains evidence in relation to an offence, they must give the device to the police as soon as it is reasonably practicable.
- Material on the device that is suspected to be evidence relevant to an offence, or that is a pornographic image of a child or an extreme pornographic image, should not be deleted prior to giving the device to the police.

- If an employee does not find any material that they suspect is evidence in relation to an offence and decides not to give the device to the police, they can decide whether it is appropriate to delete any files or data from the device or to retain the device as evidence of a breach of school discipline.
- All school employees need to be aware that behaviours linked to sexting put a child in danger. Governing bodies should ensure sexting and the school's approach to it is reflected in the child protection policy.

17. COVID-19 Control Measures

In the event that a search needs to take place it will be difficult to ensure that social distancing measures are maintained therefore the following control measures must be taken:

- Hands must be both washed and sanitised prior to the search
- All employees must wear a mask, face shield and gloves during the search
- Any items that are confiscated must be stored in their own envelope or container in a secure area
- PPE must be disposed of correctly
- Hands must be both washed and sanitised after the search.
- Incident recorded within DatabridgeMIS

18. Telling parents and dealing with complaints

- The school is not required to inform parents before a search takes place or to seek their consent to search their child.
- There is no legal requirement to make or keep a record of a search however the School will complete a record within DatabridgeMIS (Event Name: (Group) – Search, Screening and Confiscation Record). (Appendix 1)
- The school will inform the individual student's parents or guardians where alcohol, illegal drugs or potentially harmful substances are found, though there is no legal requirement to do so.
- Complaints about screening or searching will be dealt with through the normal school complaints procedure.

19. Monitoring arrangements

This policy will be reviewed every 12 months but can be revised as needed. It will be approved by the governing board

Impact of non-compliance for:

Staff: Disciplinary action

Student: Not applicable

Legislation/organisational: Reputational damage, litigation, statutory and non-regulated compliance. prosecution

Compliance lead: Headteacher/Director of Schools

Policy Reference: ELWS-OPR-014

Version: 2

Agreed policy location: DatabridgeMIS and Company Webpage

Does the policy require Governor approval? No

Approval

Prepared by	Approved by	Counter Signatory
Scott Roberts (Assoc. CIPD) 01/09/2020	Tony Brown 01/09/2020	Richard King 01/09/2020
		
Head of Corporate Services	CEO	Director of Schools, Pre 16 Education

Version Control

<i>Version</i>	<i>Date</i>	<i>Revision</i>	<i>Review Date</i>
1	01/09/2019	First Issue	01/09/2020
2	01/09/2020	Policy review, added Databridge Event to main body of policy and Appendix.	31/08/2021
3			
4			
5			

Appendix 1 - DatabridgeMIS (Event Name: (Group) – Search, Screening and Confiscation Record)

Main Details --Select-- 0

Site: Stu. Status:

Category: Student: Staff:

Date: Time: Status:

Documents:

Actions

Date	Set By	For	Action	Comments	Completed By	Date	Completed
<input type="button" value="Add Action"/>							

General

Justification for Search, Screen and Confiscation?

Findings:

Witness:

Outcome/Action: