



RISE SPACE Search, Screen and Confiscation Policy

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Amendments

Version	Page/ Paragraph	Detail of amendment	Approved
3	Pg2	Addition of paragraph from Searching, Screening and Confiscation Guidance from DfE on safeguarding aspects of searching	KM
	Pg 5	Inclusion of clarification from Guidance from DfE on safeguarding aspects of searching around need for a witness	KM
	Pg 8	Introduction of strip searching guidance from Searching, Screening and Confiscation Guidance from DfE	KM
	Pg 12	Guidance from DfE on reporting searches	KM
	Pg 3	Addition of aerosols as a prohibited item.	KM

4	All	Formatting.	KM
	All	Change of branding and proof reading	KM

About this Policy

This Policy is intended to clarify RISE SPACE's responsibility relating to the powers of the searching and screening of learners so that staff have the confidence to use them. It also explains the powers RISE SPACE have to seize and then confiscate items found during a search.

For the purposes of this policy, the term search and or screen means that an authorised member of staff will be asking the learner to empty their bags, pockets, to give access to lockers or any other place they have been allocated for storage. They will not be carrying out a physical search of the learner at any point.

Where the term risk is used, it is referring to all learners and staff, should a learner be in possession of a prohibited item that could cause injury or serious harm.

Who is this Policy for?

This Policy is for RISE SPACE staff and Partner Organisations delivering on our behalf.

Key points:

Searching

RISE SPACE staff can search a learner for any item if the learner agrees.¹

Senior Managers and staff authorised by them, have a statutory power to search learners or their possessions, where they have reasonable grounds for suspecting that the learner may have a prohibited item.

Prohibited items are:

- Knives or Weapons
- Alcohol
- Illegal Drugs
- Nootropics / Smart Drugs (a drug that is designed to make you more intelligent or help you think more clearly)
- Legal Highs (1. Legal Highs' are substances which produce the same, or similar effects, to drugs such as cocaine and ecstasy, but are not controlled under the Misuse of Drugs Act. They are considered illegal to sell, supply or advertise for "human consumption" under current medicines legislation.)
- Psycho Active Substances (a [chemical substance](#) that changes [brain](#) function and results in alterations in [perception](#), [mood](#), [consciousness](#), [cognition](#), or [behaviour](#))

- Stolen Items
- Fireworks
- Pornographic images (this is anything that is printed or visual (pictures and those pictures that are on phones/computers) showing the explicit description or display of sexual organs or activity, intended to stimulate sexual excitement).

In addition:

- Aerosols / Sprays (e.g. deodorant, perfume, room freshener, body spray). Sprays may be handed in to a member of staff to be locked away for the duration of your day.
- 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 the property of, any person (including the learner).

1 The ability to give consent may be influenced by the learner's age or other factors.

Being in possession of a prohibited item – especially knives, weapons, illegal drugs or stolen items – may mean that the pupil is involved, or at risk of being involved, in anti-social or criminal behaviour including gang involvement, and in some cases may be involved in child criminal exploitation. A search may play a vital role in identifying pupils who may benefit from early help or a referral to the local authority children's social care services. See Keeping Children Safe in Education and Working Together to Safeguard Children.

Senior Managers and authorised staff can also search for any item identified by RISE SPACE's various policies and guidance e.g.: learner handbook, as an item which may be searched for.

Confiscation

RISE SPACE staff can seize any prohibited item found as a result of a search. They can also seize any item, they consider harmful or detrimental to RISE SPACE's learner and staff wellbeing and safety.

RISE SPACE's obligations under the European Convention on Human Rights (ECHR)

Under article 8 of the European Convention on Human Rights 2019 students have a right to respect for their private life. In the context of these particular powers, 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 by a college (or any public body) must be justified and proportionate. The powers to search in the Education Act 1996 are compatible with Article 8. A college exercising those powers lawfully should have no difficulty in demonstrating that it has also acted in accordance with Article 8. This advice will assist colleges in deciding how to exercise the search powers in a lawful way.

Screening

What the law allows:

- RISE SPACE can require learners to undergo screening by a walk-through or hand-held metal detector (arch or wand if this available in the learning provision) even if they do not suspect them of having a weapon.
- RISE SPACE's statutory power to make rules on learner behaviour (1) and their duty as an employer to manage the safety of staff, students and visitors (2) enables them to impose a requirement that students undergo screening.
- Any member of RISE SPACE staff can screen learners.
- If a learner refuses to be screened, RISE SPACE may refuse to have the learner on the premises. Health and Safety legislation requires RISE SPACE to be managed in a way which does not expose learners or staff to risks to their health and safety and this would include making reasonable rules as a condition of accessing provision.

(1) Section 89 of the Education and Inspections Act 2006 (2) Section 3 of the Health and Safety at Work etc. Act 1974

If a learner fails to comply, and RISE SPACE does not allow the learner into the Centre their absence will be treated as unauthorised. The learner should comply with the rules and attend their programme.

Searching with Consent

RISE SPACE's Common Law Powers to Search:

- RISE SPACE staff can search learners with their consent for any item.
- RISE SPACE is not required to have formal written consent from the learner for this sort of search – it is enough for the staff member to ask the learner to turn out their pockets or if the staff member can look in the learner's bag or locker and for the learner to agree.
- RISE SPACE should make clear in their behaviour policy and in communications to learners what items are banned.
- If any member of staff suspects a learner has a banned item in their possession and authorised member of staff can instruct the learner to turn out their pockets or bag.

If a learner refuses to be searched and or screened, then they could be asked to leave the Centre and contact will be made with their parent/carer to inform them of this. In some circumstances, if the risk is considered serious enough the Police will be notified that they are leaving Centre, and highly likely to be in possession of an illegal item. Any information required to enable the Police to locate that learner will be shared with them.

Training for RISE SPACE staff

- Authorised members of staff will undergo specific/external training in order to make this request of a learner and they will be fully informed of what action is required should a prohibited item be identified as being on a learner's person or within their possessions.
- This information will be relayed to those staff by RISE SPACE's Directors and Safeguarding and Wellbeing Manager.
- Specific/external training is not required for any member of staff using the knife detection wand.

During the search

Extent of the search – clothes, possessions, desks and lockers

What the law says:

- The person conducting the search may not require the learner to remove any 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; boots; gloves and scarves.
- Possessions' means any goods over which the learner has or appears to have control – this includes desks, lockers and bags.
- A learner's possessions can only be searched in the presence of the learner 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.

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.

Learner storage places

- Under common law powers, RISE SPACE is able to search learner storage spaces for any item provided the learner agrees. RISE SPACE can also make it a condition of having a storage space that the learner consents to have this searched for any item whether or not they are present.

- If a learner does not consent to a search or their storage spaces (or withdraws consent) then it is possible to conduct a search without consent but only for the “prohibited items” listed above.

Use of force

RISE SPACE does not endorse the use of reasonable force unless

- Reasonable force can be used to prevent pupils from hurting themselves or others, from damaging property, or from causing disorder.

The decision on whether or not to physically intervene is down to the professional judgement of the staff member concerned and should always depend on the individual circumstances

After the search

The power to seize and confiscate items – general

What the law allows:

- RISE SPACE’s general power to discipline, as circumscribed by Section 91 of the Education and Inspections Act 2006, enables a member of staff to confiscate, retain or dispose of a learner’s property as a disciplinary penalty, where reasonable to do so.

Also note:

- 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 reasonably suspected to be an offensive weapon, it must be passed to the Police.
- 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.
- A person carrying out a search can seize anything they have reasonable grounds for suspecting is a prohibited item or is evidence in relation to an offence.
- Where a person conducting a search finds alcohol, they may retain or dispose of it. This means that RISE SPACE can dispose of alcohol as they think appropriate but this should not include returning it to the learner.

- Where they find controlled drugs, these must be delivered to the Police as soon as possible.
- Where they find other substances, which are not believed to be controlled drugs these can be confiscated where a member of staff 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 controlled they should treat them as controlled drugs as outlined above.
- Where they find stolen items, these must be delivered to the Police as soon as reasonably practicable.
- Fireworks found as a result of a search may be retained or disposed of but should not be returned to the learner.
- If a member of staff finds a pornographic image, or content that would constitute sexting, they must contact the Safeguarding and Wellbeing Manager for advice as possession may be a specified offence (i.e. it is extreme or child pornography) in which case it must be delivered to the Police as soon as reasonably practicable.
- Where an article that has been (or is likely to be) used to commit an offence or to cause personal injury or damage to property is found it may be delivered to the Police or disposed of in an appropriate manner as decided by RISE SPACE's Safeguarding and Wellbeing Manager or as directed by the Police.
- Where a member of staff finds an item, which is banned under RISE SPACE's policies and guidance they should consult with the Safeguarding and Wellbeing Manager who shall take into account all relevant circumstances and use their professional judgement to decide whether to return it to its owner, retain it or dispose of it.
- Any weapons or items which are evidence of an offence must be passed to the police as soon as possible.
- Property left behind by a learner could be subject to a search without consent.

Strip searching

- A strip search is 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 pupil(s) involved and should advocate for pupil wellbeing at all times.
- Before calling police into school, staff should assess and balance the risk of a potential strip search on the pupil's mental and physical wellbeing and the risk of not recovering the suspected item.

- Staff should consider whether introducing the potential for a strip search through police involvement is absolutely necessary, and should 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 pupil(s) involved.
- Unless there is an immediate risk of harm and where reasonably possible, staff should inform a parent of the pupil suspected of concealing an item in advance of the search, even if the parent is not acting as the appropriate adult. Parents should always be informed by a staff member once a strip search has taken place. Schools should keep records of strip searches that have been conducted on school premises and monitor them for any trends that emerge.

The process the police must follow during a strip search.

- Except in cases of urgency where there is risk of serious harm to the pupil or others, whenever a strip search involves exposure of intimate body parts there must be at least two people present other than the pupil, one of which must be the appropriate adult. 13 If the pupil's parent would like to be the appropriate adult, the school should facilitate this where possible. Police officers carrying out the search must be of the same sex as the pupil being searched. An appropriate adult not of the same sex as the pupil being searched may be present if specifically requested by the pupil. Otherwise, no-one of a different sex to the pupil being searched is permitted to be present, and the search must not be carried out in a location where the pupil could be seen by anyone else.
- Except in urgent cases as above, a search of a pupil may take place without an appropriate adult only if the pupil explicitly states in the presence of an appropriate adult that they do not want an appropriate adult to be present during the search and the appropriate adult agrees. A record should be made of the pupil's decision and signed by the appropriate adult. The presence of more than two people, other than an appropriate adult, shall be permitted only in the most exceptional circumstances.
- Strip searching can be highly distressing for the pupil involved, as well as for staff and other pupils affected, especially if undertaken on school premises. PACE Code C states that a strip search may take place only if it is considered necessary to remove an item related to a criminal offence, and the officer reasonably considers the pupil might have concealed such an item. Strip searches should not be routinely carried out if there is no reason to consider that such items are concealed.

After-care following a strip search

Pupils should be given appropriate support, irrespective of whether the suspected item is found. If an item is found, this may be a police matter, but should always be accompanied by a safeguarding process handled by the school which gives attention to the pupil's

wellbeing and involves relevant staff, such as the designated safeguarding lead (or deputy). 14 Safeguarding should also be at the centre of support following a strip search in which the item is not found, both in the sense of supporting the pupil to deal with the experience of being searched, and regarding wider issues that may have informed the decision to conduct a strip search in the first place. In both cases, pupils should feel that they have an opportunity to express their views regarding the strip search and the events surrounding it. School staff should give particular consideration to any pupils who have been strip searched more than once and/or groups of pupils who are more likely to be subjected to strip searching with unusual frequency, and consider preventative approaches.

Statutory guidance on the disposal of controlled drugs and stolen items

- It is up to RISE SPACE's Safeguarding and Wellbeing Manager to decide whether there is a good reason not to deliver stolen items or controlled drugs to the Police. In determining what is a "good reason" for not delivering controlled drugs or stolen items to the Police, RISE SPACE's Safeguarding and Wellbeing Manager must have regard to the following guidance on this issued by the Secretary of State:
- In determining what is a 'good reason' for not delivering controlled drugs or stolen items to the Police, RISE SPACE's Safeguarding and Wellbeing Manager should take into account all relevant circumstances and use their professional judgement to determine whether they can safely dispose of a seized article.
- Where, RISE SPACE's Safeguarding and Wellbeing Manager 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.
- With regard to stolen items, it would not be reasonable or desirable to involve the Police in dealing with low value items such as stationery. However, RISE SPACE's Safeguarding and Wellbeing Manager may judge it appropriate to contact the Police if the items are valuable (iPods/laptops) or illegal (fireworks).

Statutory guidance for dealing with electronic devices

- Where the person conducting the search finds an electronic device that is prohibited by RISE SPACE's policies and guidance or that they reasonably suspect has been, or is likely to be, used to commit an offence or cause personal injury or damage to property, they must consult the Safeguarding and Wellbeing Manager who may examine any data or files on the device where there is a good reason to do so and 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.
- Clarification on legislation relating to data, GDPR and privacy should be sought from RISE SPACE's IT Manager. 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 RISE SPACE's policies and guidance or is reasonably suspected of being, or being likely to be, used to commit an offence or cause personal injury or damage to property.

- Safeguarding and Wellbeing Manager 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 Safeguarding and Wellbeing Manager should 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 breach RISE SPACE’s policies and guidance.
- If an electronic device that is prohibited by RISE SPACE’s policies and guidance has been seized and the member of staff has reasonable grounds to suspect that it contains evidence in relation to an offence, they must inform the Safeguarding and Wellbeing Manager who will then 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 the Safeguarding and Wellbeing Manager 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 RISE SPACE’s policies and guidance.

Telling parents and dealing with complaints

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

Any search by a member of staff for a prohibited item listed and all searches conducted by police officers should be recorded in the school’s safeguarding reporting system, including whether or not an item is found. This will allow the designated safeguarding lead (or deputy) to identify possible risks and initiate a safeguarding response if required.

Schools are encouraged to include in the record of each search:

- the date, time and location of the search;
- which pupil was searched;
- who conducted the search and any other adults or pupils 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.

RISE SPACE shall inform the individual learner parents or guardians where alcohol, illegal drugs or potentially harmful substances are found, though there is no legal requirement to do so.

Complaints about searching or screening should be dealt with through RISE SPACE's complaints procedure.

Further sources of information

- [Information Commissioner for advice on the Data Protection Act](#)
- [Keeping children safe in education statutory guidance for schools and colleges 2020](#)
- [The Education Act 1996](#)
- [Education and Inspections Act 2006](#)
- [Health and Safety at Work etc Act 1974](#)
- [European Convention on Human Rights \(Right to Education\)](#)
- [Coroners and Justice Act 2009](#)
- [Criminal Justice and Immigration Act 2008](#)