

Searching, Confiscation and the Use of Reasonable Force Policy

Statement of Intent

Balance AP recognises that students have the right to expect a reasonable level of personal privacy and will do their utmost to ensure that, as far as possible, this right is respected. However, we also recognise our obligation, under health and safety legislation, for the need to manage unnecessary risk to students and staff. We also recognise the significant importance given to our safeguarding duties, and in this case, the need to put the safeguarding of children at the centre of our approach to handling searches, confiscations and the use of reasonable force.

The intention of this policy is to set out the framework by which Balance AP will meet this obligation by outlining the circumstances in which students will be screened, searched and, where required, the need for the use of reasonable force.

All staff will receive appropriate guidance and training about aspects outlined in this policy. This policy has due regard to legislation and statutory guidance, including, but not limited to, the following:

- Health and Safety at Work etc. Act 1974
- Education Act 1996
- Education and Inspections Act 2006
- The Schools (Specification and Disposal of Articles) Regulations 2012
- The School Behaviour (Determination and Publicising of Measures in Academies) Regulations 2012
- European Convention on Human Rights
- DfE (2013) 'Use of reasonable force'
- DfE (2022) 'Behaviour and discipline in schools'
- DfE (2022) 'Searching, screening and confiscation'
- DfE (2024) 'Keeping Children Safe in Education 2024'

The DfE's latest guidance on searching students and confiscation (2022) places a greater emphasis on safeguarding and understanding the rules on when you can search students, and what process should be followed.

Changes to guidance from September 2022

The updated DfE guidance emphasises the provision's safeguarding duty. This includes:

- Which staff members can search students
- Recording certain searches in your academy's safeguarding system
- What you should do before, during and after a search

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- Guidance on strip searches and supporting the student afterwards
- The importance of staff understanding the rights of the student being searched

All staff have a duty of care to all students in their academy. This means that there should be a balance between:

- the need to safeguard all students by confiscating harmful, illegal, or disruptive items, and;
- the safeguarding needs and wellbeing of students suspected of possessing these items.

Keeping Children Safe in Education (KCSIE) sets out the statutory duty of all staff to make sure that they make decisions in the best interests of the child. This applies to decisions to search students and confiscate items.

All staff should be vigilant about possible biases affecting their decision to search a student. They should also consider that all students have a right to expect a reasonable level of personal privacy, under Article 8 of the European Convention on Human Rights. Any 'interference' with this right must be justified and proportionate.

Who will carry out the search?

All staff members have the right to conduct a search (in line with the DfE guidance and underlying legislation). At Balance AP, all staff are trained to undertake the daily searches we carry out when students arrive at the provision. The Headteacher and all authorised staff members can search a student for:

- Any items with the student's informed consent
- Prohibited or banned items, with or without the student's consent

Prohibited items are:

- Knives or weapons
- Alcohol
- Illegal drugs
- Stolen items
- Tobacco and cigarette papers
- Vapes
- Fireworks

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- Pornographic images
- Any item that the member of staff reasonably suspects has been, or is likely to be, used to:
 - o Commit an offence
 - o Cause personal injury (including to the student) or damage to property

This list is set out in The Education Act 1996 and paragraph 3 of the DfE's guidance on searching, screening and confiscation.

NB. In addition to the list above, the Headteacher and authorised staff members can also search for other specific items that are banned in the academy. This includes mobile phones as they are not allowed in the provision and must be handed in at the start of the day.

Discussing the need for an additional search with students (in addition to the morning search routine)

The Headteacher or authorised staff member should:

- Make an assessment of how urgent the search is, and consider the risk to other students and staff. If the search does not happen straight away then the student should be supervised somewhere away from other students.
- Discuss with the student the need for the search. The reasons for the search will be made clear linked to prohibited and unauthorised items. The preference at this stage is that the student relinquishes the prohibited item.
- Explain to the student how and where the search will happen, and give them the opportunity to ask questions about it.
- Always seek the student's cooperation. If a student refuses to cooperate, the authorised member of staff should first consider why this is, and act proportionally. It may be that the student:
 - o Is in possession of a prohibited or banned item
 - o Does not understand the instructions or what a search will involve
 - o Has previously had a distressing experience of being searched
- If the student still refuses to cooperate:
 - o The provision will contact parents/carers to discuss their concerns.
 - o If there is a concern that the refusal is due to the student having prohibited items on their person, then this should, where appropriate, be reported to 101 online and the incident number recorded in a Cause for Concern form. (If the same incident was to occur again with the same student, then the incident numbers should be linked when recording and informing the Police).

o Assess whether it is necessary to use reasonable force to conduct the search (see guidelines later in this policy). This should be considered where it would prevent the student from harming themselves or others, damaging property or causing disorder. Note: you can only use reasonable force to search for prohibited items but not other items banned in the academy.

o Where items banned in the provision are believed to be on the student's person, the provision will contact the host school and parents/carers and arrange for the student to go home. This is the responsibility of the parent/carer and any costs incurred are their responsibility.

How to carry out a search

When searching a student authorised staff should avoid contact with the student. They should be asked to empty pockets, bags etc on to a surface. These items should only be handled if they are no longer on the child or the child is no longer in their possession. Authorised staff can search a student's pockets and require students to remove outer clothing, meaning clothes that are not worn directly next to the skin or over underwear. Outer clothing also includes:

- Hats
- Scarves
- Shoes or boots

You must not ask students to take off any further items of clothing.

Any such search should be carried out in an appropriate location that offers privacy away from other students. Be sensitive to whether a student is wearing outer clothing for religious reasons when you conduct a search. For example, you should not require a female student to remove a headscarf she is wearing for religious reasons if your witness is male. Authorised staff can also search a student's bag. A hand-held security metal detector may be used by authorised staff to support a search. The 'wand' should not make contact with the student.

Permission does not have to be sought from a parent/carer before a search is carried out, however, following any searches additional to the morning routine searches, a note will be made on Bromcom 'Safeguarding' and a phone call will be made to parents/carers, even when no unauthorised items have been found. The DSL and other relevant staff will also be informed as the student may potentially be vulnerable. It may be necessary, on some occasions, to test items such as substances and vapes to see if they are or contain illegal substances. This will be carried out by the Headteacher only.

Conducting a strip search

Provision staff are **not** allowed to carry out strip searches.

Only police who have been asked to come to the Provision may decide whether a search is necessary and carry it out. The police can only carry out a search if they:

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- think this is necessary to remove an item related to a criminal offence, and
- reasonably consider the student might have concealed such an item.

Provision staff will inform parents/carers prior to this happening unless police advise otherwise related to health and safety. If parents/carers are not in attendance at this time, then the Headteacher should ensure that an 'appropriate adult' is present during the search. An appropriate adult is a person whose role is to safeguard the rights and welfare of children who are suspected of a criminal offence, by ensuring they are treated fairly and are able to participate effectively.

During a strip search

- The police officers conducting a strip search must be the same sex as the student.
- There must be at least two people present other than the student, including the 'appropriate adult'. The search may only take place without an appropriate adult if:
 - o It is an urgent case where there is risk of serious harm to the student or others, or
 - o The student explicitly states that they do not want an appropriate adult present for the search, and the appropriate adult agrees and signs a record of the student's decision.
- The appropriate adult should be the same sex as the student, unless they specifically request someone else.

Provision staff should always be mindful of their duty of care. The role of provision staff is to advocate for the students' wellbeing at all times. A strip search can be highly distressing for the student, and for staff and other students affected.

The police cannot overrule the safeguarding duty of provision staff, for example by requesting that the appropriate adult leave the room when they talk to the student. It is very important that all staff are aware of this.

Calling the Police will be a last resort

We always put the best interest of the child first. This means that before you decide to call the police into the academy you should first:

- Make sure that you have exhausted other approaches
- Carefully weigh up the risks to the student's mental and physical wellbeing with the need to conduct a search.

If a prohibited item is not found:

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- Provision staff should take a safeguarding approach to supporting the student to cope with the experience of being searched.

What can be confiscated?

Authorised staff members can confiscate any item they find that they have reasonable grounds for suspecting:

- Poses a risk to staff or students
- Is a prohibited or banned item
- Is evidence in relation to an offence

What will be done with confiscated items?

Different things will happen depending on what the confiscated item is. Controlled drugs, or substances you suspect are controlled drugs or could be harmful should be delivered to the police (or safely disposed of if there is a good reason to do so).

Alcohol - Retain or dispose of, as appropriate

Vapes - Retain or dispose of, as appropriate

Tobacco or cigarette papers - Retain or dispose of, as appropriate

Fireworks - Retain or dispose of, as appropriate

Stolen items - Deliver to the police, or return to the owner or dispose of (see DfE guidance)

Weapons or items which are evidence of a suspected offence - Deliver to the police as soon as possible

Items that have been (or are likely to be) used to commit an offence or cause injury or property damage - Deliver to the police, return to the owner, retain or dispose of (see DfE guidance)

Pornographic material that you suspect constitutes a specific offence (i.e. it is extreme or an indecent image of a child)- Deliver to the police as soon as possible

For other items banned under academy rules, the following should be considered when deciding whether to return, retain or dispose of the item:

- The value of the item
- Whether returning the item to the owner may place someone at risk of harm, or disrupt learning
- Whether it is appropriate to return the item
- Whether the item can be practically and safely disposed of

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You can also confiscate, retain or dispose of a student's property as a disciplinary measure where it is reasonable to do so, as set out in section 91 of the Education and Inspections Act 2006.

Searching and confiscating electronic devices

Authorised staff members, including the Headteacher, may examine any data or files on an electronic device that they have confiscated, if they have good reason to do so. There must be two staff members present for this. This would be if staff reasonably suspect that the device has (or could be used to):

- Cause harm
- Undermine the safe environment of the school or disrupt learning
- Commit an offence

If you discover pornographic material / images, video, or other material, you may dispose of them unless it is extreme or an indecent image of a child. This should be reported to the Police.

If you have reasonable grounds to suspect that their possession is related to a specific illegal offence, do not destroy the material. Instead, hand the material, or device containing the material, over to the Police as soon as possible.

If you suspect you may find an indecent image or video of a child on a device, avoid viewing it and never copy, share, or save it. Refer the incident to your DSL and follow the DfE's guidance on responding to pornographic image-sharing in education settings.

If the device holds a recording of a fight, the phone will be retained and Police advice sought. If the Police request the phone/video the phone will be retained. Otherwise, it will be returned and the student told to delete the recording.

Use of Reasonable Force

There is no requirement to have a policy on the use of force, however, Balance AP believes it is good practice to set out the circumstances in which reasonable force may need to be used and to inform stakeholders that staff have legal power to use reasonable force, if required and without parental consent.

We believe that any use of reasonable force should be at the discretion of the staff member and should only be used when other strategies have been used, such as use of the voice. On the rare occasion where staff are put in situations where they judge the need to use reasonable force or physical restraint to ensure the health and safety of students, the following guidelines should be adhered to. These guidelines are firmly based on Government advice as outlined in the DfE guidance on the use of reasonable force in schools.

What is Reasonable Force?

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Balance AP actively promotes a positive behaviour strategy that is designed to modify and minimise poor behaviour, however, it may be necessary for staff to use reasonable force to control or restrain a student. As per the DfE legal guidance, all members of staff have a legal power to use reasonable force to prevent students from hurting themselves or others, from damaging

property, or from causing disorder.

Reasonable force may be used in the interest of student safety, as outlined by the DfE:

- to protect staff and students
- to prevent serious breaches of school discipline
- to prevent serious damage to property
- to reduce the likelihood of actions by staff being successfully challenged in the courts

The term 'reasonable force' covers the broad range of actions used by most teachers at some point in their career that involve a degree of physical contact with students. Force is usually used either to control or restrain. This can range from guiding a student to safety

by the arm through to more extreme circumstances such as breaking up a fight or where a student needs to be restrained to prevent violence or injury. 'Reasonable in the circumstances' means using no more force than is needed. As mentioned above, schools generally use force to control students and to restrain them. Control means either passive physical contact, such as standing between students or blocking a student's path, or active physical contact such as leading a student by the arm out of a classroom. Restraint means to hold back physically or to bring a student under control. It is typically used in more extreme circumstances, for example when two students are fighting and refuse to separate without physical intervention. Staff should always try to avoid acting in a way that might cause injury, but in extreme cases it may not always be possible to avoid injuring the student.

Minimising the need to use force

It is important to have a calm, orderly and supportive provision climate that minimises the risk and threat of violence of any kind. Wherever practicable, staff will issue a warning to a student that force may have to be used before using it.

Staff authorised to use force

All members of school staff have legal power to use reasonable force. This power applies to any member of staff at the Provision. It can also apply to people whom the Headteacher has temporarily put in charge of students such as unpaid volunteers or parents accompanying students on a school organised visit.

All teachers and members of staff, who have the Headteacher's authorisation to be in control of or take charge of students, automatically have the power to use force.

Deciding when to use force

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Staff can use such force as is reasonable in the circumstances to prevent a student from doing, or continuing to do, any of the following:

- Causing personal injury to or damage to the property of, any person (including the student); or
- Prejudicing the maintenance of good order and discipline at the academy or among any students receiving education at the academy, whether during a teaching session or otherwise.

****Any force used must be in proportion to the consequences it is intended to prevent.**

The greater the potential for injury, damage or serious disorder, the more likely it is that using force may be justified:

- Student attack on staff or another student
- Students fighting
- Damage to property
- Rough play
- Use of dangerous objects
- Absconding if likely to involve safety

Using force

Wherever possible, staff should tell the student to stop and be calm and measured. This should be repeated. They should not give the impression of acting out of anger, frustration or punishment. Force should cease quickly. Examples include standing between students, leading by the arm, hand on the centre of the back and finally, appropriate restrictive holds.

The degree of force used should be the minimum needed to achieve the desired result. When exercising the power to use force, staff must also take proper account of any special need and/or disability that a student might have. Staff working with special needs students will have an awareness of situations that may provoke difficult behaviour, preventative strategies and de-escalation techniques. They will know of any previous incidents and handling strategies that are recommended.

Reasonable force will not be used by Balance AP staff to search students for potential weapons. Reasonable force will never be used as a punishment.

Staff Training

There is no legal requirement for staff to be trained in physical restraint. Some staff may be identified to receive Team Teach training. There may also be particular needs for staff that work closely with students with additional needs or disability; however, training will be offered to all staff. Staff should be made aware of this policy and procedures during their induction.

How to record 'more serious' incidents involving the use of force

There are no requirements to record, but recording serious incidents is classed as best practice. Staff should make the record as soon as possible after the event, and within 24 hours, setting out a 'full picture' of what happened. If more than 1 member of staff was involved, they should create individual reports rather than collaborate on a single report. Language used should be factual and free of judgement.

What to include:

- Names of the staff and students involved, and any witnesses
- Time, date and place where the incident happened
- Details of the student's behaviour and the level of risk presented at the time
- The reason why the use of force was necessary
- Details of the physical intervention: type, degree of force used, and duration
- Injuries, damage and/or distress sustained (if any), and any action taken as a result
- A representation of the sequence of events on a plan or diagram, if necessary
- Time and date parents were informed (where the academy has decided this is appropriate)
- Details of any follow-up meetings with the child, their parents or external agencies

Have the record signed and dated by:

- The staff member
- The Headteacher

Statements from students involved should be included. Parents/carers should always be contacted and informed. Incidents requiring the use of reasonable force should be recorded on Bromcom 'Safeguarding'. First aid and emotional support will be offered for staff and students.

Any complaints raised about the use of reasonable force should be dealt with thoroughly, speedily and appropriately. Any one raising a complaint should refer to page 7 and 8 of the following guidance:

https://assets.publishing.service.gov.uk/media/5a819959ed915d74e6233224/Use_of_reasonable_force_advice_Reviewed_July_2015.pdf