



# ACET

## SEARCHING, CONFISCATION AND THE USE OF REASONABLE FORCE POLICY

### ACET SEARCHING, CONFISCATION AND THE USE OF REASONABLE FORCE POLICY

#### DOCUMENT CONTROL

<b>Policy Level</b>	Trust (Junior & Senior)		
<b>Approved by</b>	Trust Board level		
<b>Approved Date</b>	18/12/2023		
<b>Next Review Date</b>	December 2025	<b>Frequency</b>	Biannually
<b>Business Lead</b>	Chief Academic Officer	<b>Author</b>	Rebecca Hibberd
<b>Version Number</b>	<b>Date Issued</b>	<b>Updated Information</b>	
V 1.0	December 2023	New policy	



# CONTENTS

Statement of Intent .....	3
Searching pupils/students and confiscation – The Legal Framework .....	3
Changes to guidance from September 2022 .....	3
Prioritising safeguarding .....	4
Who will carry out the search? .....	4
Discussing the need for a search with pupils/students? .....	5
How to carry out a search.....	6
Conducting a strip search .....	7
During a strip search .....	7
Calling the police will be a last resort .....	8
Recording of searches.....	8
What will be done with confiscated items .....	9
Searching and confiscating electronic devices .....	10
If a pupil/student requires screening .....	10
Use of reasonable force .....	11
What is reasonable force? .....	11
Minimising the need to use force .....	12
Staff authorised to use force .....	12
Deciding when to use force .....	13
Using force .....	13
Staff training.....	13
How to record ‘more serious’ incidents involving the use of force .....	14

## **STATEMENT OF INTENT**

ACET recognises that pupils and 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, all ACET academies also recognise their obligation, under health and safety legislation, for the need to manage unnecessary risk to pupils/students and staff. They also recognise the significant importance given to their safeguarding duties, and in this case, the need to put the safeguarding of children at the centre of their approach to handling searches, confiscation and the reasonable use of force.

The intention of this policy is to set out the framework by which all ACET academies will meet this obligation by outlining the circumstances in which pupils/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,

## **SEARCHING PUPILS/STUDENTS AND CONFISCATION – THE LEGAL FRAMEWORK**

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 (2023) 'Keeping children safe in education 2023'

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

## **CHANGES TO GUIDANCE FROM SEPTEMBER 2022**

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

- Which staff members can search pupils/students
- Recording certain searches in your academy's safeguarding system
- What you should do before, during and after a search
- Guidance on strip searches and supporting the pupil/student afterwards
- The importance of staff understanding the rights of the pupil/student being searched

## PRIORITISING SAFEGUARDING

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

- the need to safeguard all pupils/students by confiscating harmful, illegal, or disruptive items, and
- the safeguarding needs and wellbeing of pupils/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 pupils/students and confiscate items.

All staff should be vigilant about possible biases affecting their decision to search a pupil/student. They should also consider that all pupils/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.

Staff will only search a pupil/student if they have good reason to, considering that it could infringe upon their wellbeing and rights in several different ways. For example:

- Loss of privacy when clothes, bags or possessions are searched
- Loss of a sense of security, if they feel they are being monitored and searched without reason
- Impact on a pupil's/student's dignity or reputation if they are searched or suspected of possessing prohibited items

## 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), however, **in ACET academies only the Executive Principal / Principal or a member of staff authorised by these colleagues will have the power** to search a pupil/student for a prohibited or banned item, regardless of whether the pupil agrees (sections [550ZA and 550ZB](#) of the Education Act 1996, and paragraph 10 in the guidance).

Principals and authorised staff members can search a pupil/student for:

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

Prohibited items are:

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

- Pornographic images
- Any item that the member of staff reasonably suspects has been, or is likely to be, used to:
  - Commit an offence
  - Cause personal injury (including to the pupil/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, principals and authorised staff members can also search for other specific items that are banned in the academy.

### **DISCUSSING THE NEED FOR A SEARCH WITH PUPILS/STUDENTS?**

The principal or authorised staff member should:

- Make an assessment of how urgent the search is, and consider the risk to other pupils/students and staff. If the search does not happen straight away then the pupil/student should be supervised somewhere away from other pupils/students.
- The principal or authorised staff member (in the presence of another staff member) will discuss with the pupil/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 pupil/student relinquishes the prohibited item.**
- Explain to the pupil/student how and where the search will happen, and give them the opportunity to ask questions about it.
- Always seek the pupil's/student's cooperation. If a pupil/student refuses to cooperate, the authorised member of staff should first consider why this is, and act proportionally. It may be that the pupil/student:
  - Is in possession of a prohibited or banned item
  - Does not understand the instructions or what a search will involve
  - Has previously had a distressing experience of being searched
- If the pupil/student still refuses to cooperate:
  - The academy may sanction them in line with the behaviour and rewards policy
  - If there is concern that the refusal is due to the student having banned items on their person, then this should be **reported to 101 online** and the incident number recorded on CPOMs/My Concern. (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).
  - 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 pupil/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.

Under law:

- The person carrying out the search must be the same sex as the pupil/student being searched.
- There must be another member of staff present as a witness to the search. The member of staff witnessing the search must also be the same sex as the pupil/student being

searched if this is reasonably practicable ([paragraph 6\(d\)](#) of section 550ZB of the Education Act 1996).

The only exception to this is if:

- The searcher **\*reasonably** believes that there is a risk of serious harm being caused to a person if a search isn't carried out urgently, **and**
- It's not reasonably practical to summon another member of staff (to carry out the search or act as a witness) within the time available
- When an authorised staff member conducts a search without a witness, they should immediately report it to another member of staff, and make sure that a record is kept (see the section on how to record searches for more support).

### WHAT DOES **\*'REASONABLE GROUNDS'** MEAN?

There's no specific guidance on what 'reasonable grounds' to suspect a pupil/student has prohibited item(s) means. It is up to the academy to decide what it may be. For example, you may:

- Hear the pupil/student or other pupils/students talking about an item
- Be told directly of an item
- See an item
- Notice a pupil/student behaving in a way that causes you to suspect that they are concealing an item.

\*You may use CCTV footage to decide whether to search for an item (paragraph 9 of the DfE guidance).

### HOW TO CARRY OUT A SEARCH

When searching a student authorised staff should avoid contact with the pupil/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 pupil's pockets and require pupils/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 pupils/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 pupils/students.

Be sensitive to whether a pupil/student is wearing outer clothing for religious reasons when you conduct a search. For example, you should not require a female pupil/student to remove a headscarf she is wearing for religious reasons if your witness is male.

Authorised staff can search lockers, desks and bags in the presence of the pupil/student and another member of staff.

A hand-held security metal detector may be used by authorised staff to support a search. The 'wand' should not make contact with the pupil/student.

**Permission does not have to be sought from a parent/carer before a search is carried out, however, following ALL searches, a note will be made on CPOMS/MyConcern 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 pupil/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 Executive Principal / Principal only. In line with the academy behaviour and rewards policy, possession of/use of illegal substances on an academy site can lead to permanent exclusion from school. The police and social care will also be informed.**

## **CONDUCTING A STRIP SEARCH**

Academy staff **are not allowed** to carry out strip searches, including the principal and authorised staff. Only police who have been asked to come to the academy may decide whether a search is necessary and carry it out. The police can only carry out a search if they:

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

**Academy 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 principal 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 pupil/student.
- There **must** be at least two people present other than the pupil/student, including the 'appropriate adult'. The search may only take place without an appropriate adult if:
  - It is an urgent case where there is risk of serious harm to the pupil/student or others, or
  - The pupil/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 pupil's/student's decision.
- The appropriate adult should be the same sex as the pupil/student, unless they specifically request someone else.

Academy staff should always be mindful of their duty of care.

The role of academy staff is to advocate for pupils'/students' wellbeing at all times. A strip search can be highly distressing for the pupil/student, and for staff and other pupils/students affected.

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

### **CALLING THE POLICE WILL BE A LAST RESORT**

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 pupil's/student's mental and physical wellbeing with the need to conduct a search.

If a prohibited item is not found:

- Academy staff should take a safeguarding approach to supporting the pupil/student to cope with the experience of being searched,

### **RECORDING OF SEARCHES**

A record of all searches (and any items confiscated or not) made should be placed on CPOMs/MyConcern as soon as possible following the incident.

The DfE suggests that you record:

- The date, time and location of the search
- Which pupil/student was searched
- Who conducted the search, and any other adults or pupils/students present
- What was being searched for
- The reason for searching
- What items, if any, were found
- What follow-up action was taken as a consequence of the search

Analysis of this data will be **carried out half termly by the DSL and reported to the Local Governing Body**. The data should be used, for example to see if any groups are disproportionately subject to searches. Trends should be identified and appropriate responses considered.

Children in possession of drugs, alcohol or weapons should be considered vulnerable and at risk of exploitation. Paragraph 20 of [KCSIE](#) highlights the need to be alert to the potential risks of children who are:

- Showing signs of being drawn in to anti-social or criminal behaviour
- In challenging family circumstances, such as drug and alcohol misuse

- Misusing drugs or alcohol themselves

A search can play a vital role in identifying pupils/students who may benefit from early help or a referral to the Local Authority children’s social care services. The Designated Safeguarding Lead (DSL) should make an immediate referral if they find evidence that a child is at risk of harm.

You must inform your DSL of any searches that you believe reveal a safeguarding risk, or where you have reasonable grounds to suspect that a pupil/student was in possession of a prohibited item.

### 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 pupils/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	Deliver to the police (or safely dispose 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 <a href="#">DfE guidance</a> )
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 <a href="#">DfE guidance</a> )
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

You can also confiscate, retain or dispose of a pupil's/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 Executive Principal/Principal may examine any data or files on an electronic device that they have confiscated, if they have good reason to do so.** 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 pupil/student told to delete the recording.

## **IF A PUPIL/STUDENT REQUIRES SCREENING**

**Screening is the use of a walk-through or hand-held metal detector to scan all pupils/students before they enter the school site.**

A walk-through device will only be used after consultation with the Police and academy trustees.

A hand-held metal detector will be used only when staff suspect a pupil/student may be hiding an unauthorised item on their person. No contact will be made with the child when this happens (see previous).

You can require pupils/students to undergo screening. However:

- Before considering installing and using any screening technology, schools are encouraged to consult with the local Police, as they may be able to provide advice about whether installing these devices is appropriate.
- All pupils/students and parents will be informed in advance if any screening is to take place on academy site.
- Reasonable adjustments to the screening process will be made where a pupil/student has an identified disability.

A pupil/student may be sanctioned if they refuse to co-operate with a search for a prohibited item, in line with the academy behaviour and rewards policy. This should only happen after seeking co-operation and the refusal is persistent.

**The academy will ensure that this policy is communicated to all members of the academy community to make sure that pupils/students, parents and staff know which items may be searched for.**

## **USE OF REASONABLE FORCE**

There is no requirement to have a policy on the use of force, however, ACET 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.**

ACET believes 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 pupils/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.

It is also worth noting that schools and academies **should not** have a 'no contact' policy.

**By including this information in a policy, it is hoped that our approach to the use of reasonable force is clear to staff, pupils/students and parents/carers.**

<https://www.gov.uk/government/publications/use-of-reasonable-force-in-schools>

## **WHAT IS REASONABLE FORCE?**

ACET 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 academy staff have a legal power to use**

**reasonable force to prevent pupils/students from hurting themselves or others, from damaging property, or from causing disorder.**

**Reasonable force may be used in the interest of pupil/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 pupils/students.

Force is usually used either to control or restrain. This can range from guiding a pupil/student to safety by the arm through to more extreme circumstances such as breaking up a fight or where a pupil/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 pupils/students and to restrain them. Control means either passive physical contact, such as standing between students/pupils or blocking a student's/pupil's path, or active physical contact such as leading a pupil/student by the arm out of a classroom.

Restraint means to hold back physically or to bring a pupil/student under control. It is typically used in more extreme circumstances, for example when two pupils/students are fighting and refuse to separate without physical intervention.

Academy 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 pupil/student.

## **MINIMISING THE NEED TO USE FORCE**

It is important to have a calm, orderly and supportive academy climate that minimises the risk and threat of violence of any kind. Wherever practicable, staff will issue a warning to a pupil/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 academy. It can also apply to people **whom the principal** has temporarily put in charge of pupils/students such as unpaid volunteers or parents accompanying pupils/students on a school organised visit.

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

## DECIDING WHEN TO USE FORCE

Staff can use such force as is reasonable in the circumstances to prevent a pupil/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 pupil/student); or
- Prejudicing the maintenance of good order and discipline at the academy or among any pupils/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:

- Pupil/student attack on staff or another pupil/student
- Pupils/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 pupil/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 pupil/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 ACET staff to search pupils/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 pupils/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 pupils/students involved, and any witnesses
- Time, date and place where the incident happened
- Details of the pupil's/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 principal

Statements from pupils/students involved should be included.

Parents/carers should always be contacted and informed.

Incidents requiring the use of reasonable force should be recorded on CPOMs / MyConcern.

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