

Rochester Independent College fully recognises its responsibility under section 157 of the Education Act 2002 to have arrangements in place to safeguard and promote the welfare of children. Keeping Children Safe in Education makes clear that all college staff have a responsibility to provide a safe environment in which students can learn.

The college acknowledges its legal duty to make reasonable adjustments for disabled students and students with special educational needs (SEN) under the Equality Act 2010. Before conducting a search on a student, we will consider our obligations 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 powers to search as given in the Education Act 1996 are compatible with Article 8. While Article 8 is not absolute and can be interfered with, any interference must be proportionate and justified. Rochester Independent College will always consider the age and needs of the students when carrying out a search.

This policy is a whole-college policy and applies to all students, including those in boarding. It applies to all staff including governors, volunteers and contractors, paid and unpaid.

This policy has been written using advice taken from the DfE document Searching, Screening and Confiscation: Advice for Schools, July 2022.

This policy should be read in conjunction with the safeguarding and child protection policy, behaviour policy and the exclusions policy.

Searches

Searching and confiscation powers are an important mechanism to ensure that students' and staff welfare is protected so that prohibited, harmful or illegal items can be removed safely and according to the law. Students and parents should know what items are not allowed to be brought into college and what will happen if they are. Before carrying out any search, staff should explain to the student the reason for the search, how and where it is going to take place and allow the student to ask any questions.

Extent of a search

A member of staff may search a student's possessions, pockets and outer clothing. 'Possessions' means any goods over which the student has control or appears to have control, such as their bag. 'Outer clothing' includes hats, shoes, boots or scarves. It also 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. The person

conducting the search must not require the student to remove any clothing other than outer clothing. A boarder's room and possessions may also be searched according to these guidelines.

Search with consent

Under common law, school staff have the power to search for any item if a student agrees. It is enough for a member of staff to ask the students to turn out his or her pockets or if the member staff can look in the student's bag and for the student to agree. Written consent from the student is not needed. The member of staff undertaking the search should ensure the student understands the reason for the search and how it will be conducted so their agreement is informed. In any event, the age and needs of a particular student must be taken into account, such as those with SEN or a disability.

The College makes clear in the behaviour policy and in communications to parents and students which items are banned. If a member of staff suspects a student has a banned item in their possession, they can instruct the student to turn out their pockets or bag. If the student refuses, the member of staff can apply an appropriate punishment as set out in the College's behaviour policy. A student refusing to cooperate with a search raises the same kind of issues as a student refusing stay in detention or to stop any other kind of unacceptable behaviour - the College can apply an appropriate sanction.

Although parental consent is not required, for those students who are aged under 16 we will usually contact parents to let them know of our intention to conduct a search. Parental consent will not be sought when prohibited items are being searched for.

Search without consent

The principal and the members of staff authorised by the principal have a statutory power to search students or their possessions without consent, where they have reasonable grounds for suspecting that the student may have a prohibited item. The principal has authorised the following members of staff to carry out searches without student consent, where consent is not required, and to retain or dispose of items in accordance with this policy:

Senior Vice Principal
Vice Principals
Head of Boarding
DSL
ADSL

If a student is suspected of carrying a prohibited item it may be necessary to conduct a search of

- Outer clothing
- Pockets
- Possessions such as bag or pencil case
- College property such as a laptop
- Boarding accommodation
- Accommodation on a school trip in England

Prohibited items

The following are prohibited items under Section 550ZA(3) of the Education Act 1996 and Regulation 3 of the Schools (Specification and Disposal of Articles) Regulations (SI 2012/951):

- Knives
- Weapons
- Alcohol
- Illegal drugs
- Stolen items

An article specified in regulations:

- Tobacco
- Cigarette papers
- Fireworks
- Pornographic images

An article that a member of staff reasonably suspects has been, or is likely to be used:

- To commit an offence
- To cause personal injury to, or damage to the property of, any person (including the student)

Banned items

An item may be banned by the College if it is believed to be detrimental to behaviour and safety in College and named in the rules as an item that may be searched for. This includes drug paraphernalia, vapes and e-cigarettes.

Search protocol

The authorised member of staff can only undertake a search without consent if they have reasonable grounds for suspecting that a student may be in possession of a prohibited item. They must decide in each case what constitutes reasonable grounds - for example, overhearing a conversation between students talking about an item, or behaving in a suspicious manner. They can also view CCTV footage to decide whether to search for an item.

The authorised member of staff conducting the search must be the same sex as the student being searched. There must also be a second staff member present who, if at all possible, should be the same sex as the student being searched. If the authorised member of staff reasonably believes that a risk of serious harm will be caused to a person if they do not conduct the search immediately and it is not reasonably practicable to summon another member of staff then, **as a limited exception**, a member of staff of the opposite sex may carry out a search without a witness present.

All searches will be carried out in a separate area away from other students so as to minimise embarrassment to the student and respect their privacy and property, with belongings left in an orderly state.

The power to search without consent should be seen as a last resort and used only when other options have been exhausted. Staff should question the student and ask them to hand over the item. If this does not work, the student should be given the opportunity to consent to a search before a search without consent is undertaken, if it is safe to do so.

If a student refuses to cooperate with a search for a prohibited item, the member of staff should consider the reasons why they are not cooperating. The student may be in possession of a prohibited item; not fully understand the situation or instruction; be unaware of how a search is carried out; or had a previous negative experience of being searched. The member of staff also needs to consider whether reasonable force needs to be used to conduct the search. If a student is not willing to cooperate with a search and it is felt does not have sufficient maturity or understanding of the situation then a parent's cooperation will be sought.

If a student refuses to cooperate with a search for items that are not prohibited as detailed in the above list, disciplinary action may be taken according to the College behaviour policy.

Searches without consent can only be carried out on the College premises or where the authorised member of staff has lawful control and charge of the student, such as on college trips in England. Outside England, a search without consent can only be conducted if allowed by the law of that country.

Use of force

Restraint or physical intervention must not be used solely to facilitate a search.

Authorised staff can use such force as is reasonable when carrying out a search for a prohibited item.

Each case needs to be individually assessed to decide whether carrying out a search prevents the student harming themselves, others, damaging property or causing disorder.

Force **cannot** be used to search for or confiscate items that are banned under College rules.

After a search

The principal and authorised staff may seize, retain and deal with an item that they suspect is a prohibited item in accordance with this policy. Any concerns that a student is in possession of a prohibited item or a search revealing a safeguarding risk should be reported to the DSL or one of the other ADSLs, as well as the Principal, so that the matter is treated as a child protection concern whether or not a prohibited item is found. It will be necessary to consider whether the student's behaviour is a result of unmet need, or being at risk of harm or suffering significant harm. A student being in possession of a prohibited item such as a knife, other weapon, stolen items or illegal drugs, may indicate that the student is involved in criminal or exploitative activity, such as involvement in a gang. In such cases the student will be in need of specific outside support. The DSL will follow safeguarding procedures to assess the risk to the student and the need for external agency involvement. Once safety has been established it may still be necessary to discipline the student in line with the College behaviour policy.

If there is any immediate danger to the student or others, then call 999.

Recording searches

A search for a prohibited item, those banned by the school rules or searches carried out by the police will be recorded and filed in the search and confiscation folder, as well as saved on CPOMS and also on Orah for boarding searches. This will allow the principal to ensure the policy is implemented in a safe, consistent and fair manner. The DSL in conjunction with the principal will monitor for patterns as well as emerging risks and organise a safeguarding response if required.

Search records will include:

- Which student was searched
- Date, time and location of search
- Who carried out the search
- Any other members of staff or student present
- What was being searched for
- Reason for the search
- What was found, if anything
- Follow-up action as a result

Records will also be monitored to consider whether searches fall disproportionately on any particular group and action to be taken to prevent this.

Screening

The College does not use electronic devices, such as metal detectors or wands, to screen students.

Confiscation

The colleges' general power to discipline enables an authorised member of staff to confiscate, retain or dispose of a student's property as a disciplinary penalty, where reasonable to do so. An item may be confiscated following a lawful search or however it is found if the member of staff considers it harmful or detrimental to the discipline of the College ie poses a risk to staff or students; is prohibited or listed in the college rules as an item for which a search can be made; or is evidence related to an offence. 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. See also 'Confiscating, retaining and destroying items and delivering items to the police' towards the end of this policy.

Strip searching

A strip search involves the removal of more than one item of outer clothing. Strip searches can only be carried out on school premises by police officers under the Police and Criminal Evidence Act 1984 (PACE) Code A in accordance with PACE Code C. The College will from the outset pursue other approaches that

are less invasive and have less impact on a student's mental and physical wellbeing. Although the decision to carry out a strip search rests with the police, the College has a duty of care towards the student and will advocate for the student's wellbeing, which may involve an appropriate adult during searches conducted by police on College premises.

Informing parents

There is no legal requirement to inform parents before a search for a banned or prohibited item or to ask their permission before a search is conducted. If it is possible we will inform the parents of those students under the age of 16 of our intention to carry out a search. Parents should always be informed of any search for a prohibited item and the outcome of the search as soon as possible after the event, letting them know if anything has been confiscated and the action the College has taken. A record of searches will be kept. If a parent makes a complaint about the search or confiscation of an item, the normal procedures for dealing with a complaint should be followed.

Involving the police

Child-centred decision-making should be part of any consideration to report a matter to the police. If a student's behaviour could be criminal or poses a serious threat then the police should always be informed. The principal will make the decision whether or not to involve the police. Further information about when to call the police can be found in the document [NPCC: When to call the police: guidance for schools and colleges.](#)

Confiscating, retaining and destroying items and delivering items to the police

All decisions to confiscate, retain, destroy or deliver items to the police must be made in consultation with the principal.

Electronic devices

Staff may examine files or data on an electronic device they have confiscated **only if they have good reason to do so** - in other words, they reasonably suspect that content on the device has been or could be used to cause harm, undermine the College's safe environment, disrupt teaching or be used to commit an offence. Any search of an electronic device should be done with a member of IT staff present as they will be able to assist in searching appropriate files and data and their permanent erasure if required.

However, if the member of staff suspects they may find an indecent image (sometimes known as a nude or semi-nude) or video of a child **they should not view it. Nor should they share, save, store, copy, print or forward it.** The member of staff should refer the incident to the DSL or ADSL in accordance with the Safeguarding and Child Protection policy. Dealing with reports or concerns involving indecent images can be particularly complex and the principles as set out in Keeping Children Safe in Education 2023 should be followed. When viewing an image or video is unavoidable staff should follow the advice in UKCIS guidance *Sharing nudes and semi-nudes: advice for education settings working with children and young people.*

Electronic devices, such as mobile phones and tablets, may be confiscated and used as evidence in disciplinary matters or handed to the police for investigation. Staff therefore need to carefully consider what the appropriate safeguarding response is to a situation in which there may be files or data on an electronic device that relate to an offence, may cause harm to another person or reasonably suspect are likely to put a person at risk, such as:

- Indecent images of children
- Abusive messages, images or videos
- Pornography
- Material related to criminal behaviour
- Cyberbullying

Electronic devices provided to students by the College are continually monitored by the platforms set up by the IT department who, in conjunction with an authorised member of staff, may request the device for further inspection if there is good reason to believe that the device has been or could be used to cause harm, disrupt teaching or break College rules.

Files and data on electronic devices will only be erased if there is good reason to suspect that the data or files have been or could be used to cause harm, disrupt teaching or break school rules. The member of staff should consider whether the material found may be evidence related to a suspected offence. **In these circumstances the data or files should not be deleted** but handed to the police as soon as is reasonably practicable. If the data or files are not related to an offence they may be deleted if there is the likelihood that they will continue to cause harm if kept and the student (or parent) refuses to delete the data or files themselves.

Any search of an electronic device will comply with data protection law.

Pornographic images

Extreme pornography or indecent images of children must be delivered to the police as soon as is reasonably practicable. **As stated above, staff should not intentionally view any indecent image of a child, nor should they share, save, store, copy, print or forward it.** The DSL should be notified as the possession of such images may indicate that the student is at risk of harm. They will decide whether a referral to children's social services should be made. Other types of pornographic images will be discussed with the DSL or ADSL, who may contact children's social services regarding further action. If no further action is to be taken the images will be disposed of or erased, with disciplinary action taken according to the behaviour policy.

Controlled drugs

These should be delivered to the police as soon as possible. However, in exceptional circumstances and at the discretion of an authorised member of staff, the drugs may be destroyed without the involvement of the police if there is good reason to do so. All relevant circumstances will be taken into account and staff will use their professional judgement to determine whether the drugs can be safely disposed of. If there is any doubt about how to safely dispose of them they should be delivered to the police.

Other substances which are not controlled but believed to be harmful should also be confiscated and destroyed. If it is unclear whether it is a controlled substance then it should be treated as such and

dealt with as above.

Alcohol

Alcohol that has been confiscated will be destroyed.

Tobacco, cigarette papers or e-cigarettes

These may be retained or disposed of as appropriate but should not be returned to the student.

Stolen items

These should be handed to the police as soon as possible. However, if a senior member of staff feels there is good reason to do so, stolen items may be returned to the owner without involving the police. They should take into account the relevant circumstances and consider:

- the value of the item
- whether it is banned by the College
- whether keeping it or returning it puts another person at risk of harm and
- whether the item can be disposed of safely.

Fireworks

These will be handed to the health and safety manager for safe storage and disposal but will not be returned to the student.

Weapons or items suspected of being used to commit an offence

These must be passed to the police as soon as possible.

Item(s) used or could be used to commit an offence, cause personal injury or damage property

Taking all circumstances into account, at the discretion of the member of staff these items should be delivered to the police, returned to the owner, retained or disposed of. If a member of 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. In taking into account the 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.

Items banned under College rules

Members of staff should use their judgement to decide whether to return, retain or dispose of items banned under College rules. Taking all relevant circumstances into account the member of staff should consider:

- The value of the item
- Whether it is appropriate to return it to the student or parent
- Whether it is likely to disrupt learning or the calm, safe and supportive environment of the College

If there is no immediate risk of harm, damage or disruption then staff should return the banned item as soon as is practicable, in line with any disciplinary action that may have been taken.

If staff confiscate a mobile electronic device that has been used against College rules to disrupt teaching, the device will be stored safely until the end of the day, when it will be returned to the student, unless the principal considers it necessary to keep it as evidence of disciplinary proceedings.

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