

# PONY PARTNERSHIPS



## Searching and Confiscation Guidelines

Name of Organisation: Pony Partnerships CIC.

Venue/address for which policy applies: All venues

Date of last review: 1<sup>st</sup> September 2023

Date of next review: 31<sup>st</sup> August 2024

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This policy relates to the following documents and policies:

- Behaviour policy

Pony Partnerships holds the strong belief that all learners and staff need to feel safe and valued. In order to maintain a caring and safe environment, there will occasionally be the need to ensure that harmful or dangerous items are not brought onto site or removed from site.

When working under contracts with schools, we should follow the law according to education providers as detailed by the Department of Education – Searching, screening and confiscation – July 2022

- Appendix 1: Record of Search and Confiscation. Confidential Learner Information – Isolated incident.
- Appendix 2: Record of Search and Confiscation Confidential Learner Information – ongoing for risk assessment.

### Searching

Searching can play a critical role in ensuring that this provision is a safe environment for all. It is a vital measure to safeguard and promote welfare, and to maintain high standards of behaviour through which everyone can learn and thrive.

Senior leaders and staff they authorise have a statutory power to search a learner or their possessions where they have reasonable grounds to suspect that the learner may have a prohibited item or any other item that the provision rules identify as an item which may be searched for.

The list of prohibited items is:

- knives and weapons;
- alcohol;
- illegal drugs;
- stolen items;
- 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 property of; any person (including the learner).
- an article specified in regulations
  - tobacco and cigarette papers;
  - fireworks; and
  - pornographic images.

Under common law, staff have the power to search a learner for any item if the learner agrees. The member of staff should ensure the learner understands the reason for the search and how it will be conducted so that their agreement is informed.

Only the Clinical Lead, or a member of staff authorised by the Clinical Lead, can carry out a search. The Clinical Lead can authorise individual members of staff to search for specific items, or all items set out in the provision's behaviour policy. For example, a member of staff may be authorised to search for stolen property and alcohol but not for weapons or drugs.

## Education providers' obligations under the European Convention on Human Rights (ECHR)

Under article 8 of the European Convention on Human Rights, learners have a right to respect for their private life. In the context of these particular powers, this means that learners 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 an education provider (or any public body) must be justified and proportionate.

The powers to search in the Education Act 1996 are compatible with Article 8. An education provider exercising those powers lawfully should have no difficulty in demonstrating that it has also acted in accordance with Article 8. This advice will assist education providers in deciding how to exercise the searching powers in a lawful way.

## Before searching

- A search can be considered if the member of staff has reasonable grounds for suspecting that the learner is in possession of a prohibited item or any item identified in the provision rules for which a search can be made, or if the learner has agreed.
- The authorised member of staff should make an assessment of how urgent the need for a search is and should consider the risk to other learners and staff.
- Before any search takes place, the member of staff conducting the search should explain to the learner why they are being searched, how and where the search is going to take place and give them the opportunity to ask any questions.
- The authorised member of staff should always seek the co-operation of the learner before conducting a search. If the learner is not willing to co-operate with the search, the member of staff should consider why this is. Reasons might include that they:
  - are in possession of a prohibited item;
  - do not understand the instruction;
  - are unaware of what a search may involve; or
  - have had a previous distressing experience of being searched.
- If a learner continues to refuse to co-operate, the member of staff may sanction the learner in line with the behaviour policy, ensuring that they are responding to misbehaviour consistently and fairly.
- If the member of staff still considers a search to be necessary, but is not required urgently, they should seek the advice of the clinical lead, or designated safeguarding lead (or deputy) who may have more information about the learner. During this time the learner should be supervised and kept away from other learners.
- If the learner still refuses to co-operate, the member of staff should assess whether it is appropriate to use reasonable force to conduct the search. A member of staff can use such force as is reasonable to search for any prohibited items, but not to search for items which are identified only in the school rules.
- See guidance on the [Use of reasonable force in schools](#). The decision to use reasonable force should be made on a case-by-case basis. The member of staff should consider whether conducting the search will prevent the learner harming themselves or others, damaging property or from causing disorder.

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- It should be noted that the use of reasonable force will differ depending on whether the member of staff is searching possessions or the learner themselves.

## During a search

### Where?

- An appropriate location for the search should be found. Where possible, this should be away from other pupils. The search must only take place on the provision premises or where the member of staff has lawful control or charge of the pupil, for example on an external visit.

### Who

- The law states the member of staff conducting the search must be of the same sex as the pupil being searched. There must be another member of staff present as a witness to the search.
- There is a limited exception to this rule. This is that a member of staff can search a pupil of the opposite sex and/or without a witness present only:
  - if the member of staff carrying out the search reasonably believes there is risk that serious harm will be caused to a person if the search is not carried out as a matter of urgency; and
  - in the time available, it is not reasonably practicable for the search to be carried out by a member of staff who is same sex as the pupil or it is not reasonably practicable for the search to be carried out in the presence of 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. See the sections on recording searches.

### The extent of the search

- A member of staff may search a pupil's outer clothing, pockets, or possessions
- The person conducting the search must not require the pupil to remove any clothing other than outer clothing. 'Outer clothing' 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, as well as hats, shoes, boots or scarves.
- 'Possessions' means any goods over which the pupil has or appears to have control - this includes bags.
- A pupil's possessions can only be searched in the presence of the pupil 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.
- The member of staff may use a metal detector to assist with the search.
- The member of staff's power to search outlined above does not enable them to conduct a strip search.

### After a search

- Whether or not any items have been found as a result of any search, schools should consider whether the reasons for the search, the search itself, or the outcome of the search give cause to suspect that the pupil is suffering, or is likely to suffer harm, and/or whether any specific support is needed. Where this may be the case, school staff should follow the school's child protection policy and speak to the designated safeguarding lead (or deputy) as set out in [Part 1 of Keeping children safe in education](#). They will consider if pastoral support, an early help intervention or a referral to children's social care is appropriate.
- If any prohibited items are found during the search, the member of staff should follow the guidance set out below in the section on confiscation.

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- If a pupil is found to be in possession of a prohibited item, then the staff member should alert the designated safeguarding lead (or deputy) and the pupil should be sanctioned in line with the behaviour policy to ensure consistency of approach.

### Recording searches

- Any search by a member of staff for a prohibited item and all searches conducted by police officers should be recorded using the 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.
- A form for recording the search can be found in Appendix 1

### Informing parents

- Parents should always be informed of any search for a prohibited item that has taken place, and the outcome of the search as soon as is practicable.
- A member of staff should inform the parents of what, if anything, has been confiscated and the resulting action the school has taken, including any sanctions applied.
- Any complaints about searching, screening or confiscation should be dealt with through the normal complaints procedure

### Confiscation

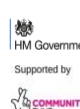
#### Items found as a result of a search

- An authorised staff member carrying out a search can confiscate any item that they have reasonable grounds for suspecting:
  - poses a risk to staff or pupils;
  - is prohibited, or identified in the school rules for which a search can be made (see paragraphs 2-3); or
  - is evidence in relation to an offence.

#### Prohibited or illegal items

- Controlled drugs must be delivered to the police as soon as possible unless there is a good reason not to do so.
- In these cases, the member of staff must safely dispose of the drugs. The member of staff should take into account all relevant circumstances and use their professional judgement to determine whether they can safely dispose of the controlled drug. When staff 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. If the member of staff is in doubt about the safe disposal of controlled drugs, they should deliver them to the police.
- Other substances which are not believed to be controlled should also be delivered to the police, or disposed of as above, if the member of staff believes they could be harmful.
- Where a person conducting a search finds alcohol, tobacco, cigarette papers or fireworks, they may retain or dispose of them as they think appropriate but should not return them to the pupil.
- If a member of staff finds a pornographic image, they may dispose of the image unless they have reasonable grounds to suspect that its possession constitutes a specified offence (i.e. it is extreme or an indecent image of a child) in which case it must be delivered to the police as soon as reasonably practicable.
- Members of staff should never intentionally view any indecent image of a child (also sometimes known as nude or semi-nude images). Staff must never copy, print, share, store or save such images.
- Where a member of staff finds stolen items, these must be delivered to the police as soon as

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reasonably practicable. However, if there is good reason to do so, the member of staff may also return the item to the owner, or retain or dispose of it if returning them to their owner is not practicable. The member of staff should take into account all relevant circumstances and use their professional judgement to determine whether they can safely dispose of the seized article. In taking into account the relevant circumstances, the member of staff should consider the following:

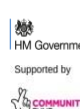
- the value of the item - it would not be reasonable or desirable to involve the police in dealing with low value items such as pencil cases, though school staff may judge it appropriate to contact the police if the items are valuable;
  - whether the item is banned by the school;
  - whether retaining or returning the item to the owner may place any person at risk of harm; and
  - whether the item can be disposed of safely.
- Any weapons or items which are evidence of a suspected offence must be passed to the police as soon as possible.
  - Items that have been (or are likely to be) used to commit an offence or to cause personal injury or damage to property should be delivered to the police as soon as reasonably practicable, returned to the owner, retained or disposed of. The member of staff should take into account all relevant circumstances and use their professional judgement to determine whether the item should be delivered to the police, retained, returned to the owner or disposed of. In taking into account all 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.
  - If a member 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. The member of staff should take into account all relevant circumstances and use their professional judgement to determine whether they can safely dispose of the seized item. In taking into account all relevant circumstances, the member of staff should consider:
    - the value of the item;
    - whether it is appropriate to return the item to the pupil or parent; and
    - whether the item is likely to continue to disrupt learning or the calm, safe and supportive environment of the school.
  - Members of staff should follow any additional guidance and procedures on the retention and disposal of items put in place by the school.

## GUIDANCE ON DEALING WITH RETAINED ITEMS

The following guidance is useful but not extensive and the member of staff retaining any item/s after a search should always speak to a senior member of staff and record their actions.

- Alcohol – education providers can dispose of this – it should not be returned to the learner.
- Controlled drugs or suspected controlled drugs – advice from the Police – this will usually be a Police Officer collecting the item/s. Ensure they are labelled and kept in a secure place prior to collection.
- Other substances e.g., legal highs – these should be disposed of.
- Stolen or suspected stolen items – these should be delivered to the Police – they may also be returned to their owner if there is good reason to do so.
- Tobacco or tobacco related products – these may be disposed of – they should not be returned to the learner.
- Fireworks should be disposed of – they should not be returned to the learner.
- Pornographic images – the image may be disposed of unless its possession constitutes a specific offence. If this is the case it should be delivered to the Police. Images found on a mobile

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phone or other electronic device can be deleted unless it is necessary to pass them to the Police.

- Weapons or items which are evidence of an offence having been or going to be committed – these should be passed to the Police
- Items which may be used as weapons – should be retained – discussion with senior member of staff

## FURTHER INFORMATION

- Staff authorised to conduct searches will receive guidance and training on the education provider approach
- Further guidance can be found in the full guidance on [Searching, screening and confiscation from the DfE](#)

## Appendix 1

### Record of Search and Confiscation Confidential Client Information

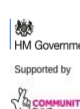
To be completed following a search and potential conducted under the Pony Partnerships' "Confiscation and Searching" guidelines as part of commissioned school contracts

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<b>Client Name:</b>	<b>Base:</b>
<b>Reason for Search:</b> (delete as appropriate) <ul style="list-style-type: none"> <li>• One-off incident</li> <li>• First search as part of plan or Risk Assessment where a search is conducted as part of RA/plan then this will be recorded on Appendix 2</li> <li>• Where routine search led to confiscation of item</li> </ul>	<b>Date and time of search:</b>
<b>Where did the search take place?</b>	<b>Search conducted:</b> (delete as appropriate) <ul style="list-style-type: none"> <li>• <b>With consent</b></li> <li>• <b>Without consent</b></li> </ul>
<b>Search conducted by:</b>  <b>Name:</b> ..... <b>Signed:</b> ..... <b>Date:</b> .....  <b>Name:</b> ..... <b>Signed:</b> ..... <b>Date:</b> .....  I confirm that this search was conducted in line with the Confiscation and Search Guidelines.	
<b>Where items were found as part of this search, please record.</b>	<b>Items found</b>
<b>Other points to note:</b>	
<b>Actions taken – including retention and disposal of items/referrals to police or other agencies/information shared with parents/review of RA, etc:</b>	

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