

# Loughborough College

## *Stop and Search Policy*

### 1. Scope and Purpose

- 1.1 This policy is intended to explain the powers of screening, stop and searching learners so that College staff have the confidence to use them.
- 1.2 It explains the use of the powers the college has to search learners without consent.
- 1.3 It explains the powers the college has to seize and then confiscate items found during a search.
- 1.4 This policy also incorporates statutory guidance which the college must have regard to.
- 1.5 Throughout this document, “College staff” means any member of staff, including anyone contracted or seconded temporarily to work with the College. “Authorised staff” means those with the written authorisation of the CEO.

### 2. Policy Statement

- 2.1 Loughborough College believes that all staff, learners and visitors should be able to work in a safe environment.
- 2.2 The College is committed to giving all learners a fair and reasonable opportunity to inform staff of any items which may be classed as prohibited items and the reason for having these items during a search.
- 2.3 The policy and accompanying procedure is based on the following permissions:

All College staff can ask a learner to surrender a prohibited item, without a search, or can search for any item if the learner agrees. Staff should only do so if there is no risk to the member of staff, learners or others; where the student is able to give valid consent; and where the search is restricted to turning out of pockets or inspection of bags or other items in the learner’s control. A search with consent should not involve physical contact with the learner.

Only staff specifically authorised in writing on behalf of the CEO can search learners without the consent of the learner. Members of the Security team and of the Safeguarding team will be trained to carry out searches and will be authorised when trained.

Authorised staff have the statutory power to search learners or their possessions, without consent, where they have reasonable grounds for suspecting that the learner may have a prohibited item, as defined in the procedure below.

- 2.4 Managers are required to familiarise themselves with the stop and search policy
- 2.5 Learners may be withdrawn for a first breach of the stop and search policy (namely the finding of a prohibited item) dependent on the severity of the find.

- 2.6 Should a learner become involved in the disciplinary process due to a stop and search the matter will be addressed as confidentially as possible. Similarly, individuals are asked to keep disciplinary matters and related information confidential. Breaches of confidentiality may be considered as a separate disciplinary issue and investigated accordingly.
- 2.7 The College reserves the right to suspend a learner pending an investigation this may be done due to other issues relating to the learner themselves and may have no reflection on their action or the investigation.

### 3. Equality Impact Assessment

This policy/procedure has been assessed for its impact on equal opportunities and will be informed by the aim to eliminate all forms of discrimination in all strands of the equal opportunities legislation.

### 4. Procedure

Guidelines on how to carry out a search are set out in Appendix 1

#### 4.1 Searching

All College staff can ask a learner to surrender a prohibited item, without a search, or can search for any item if the learner agrees. Staff should only do so if there is no risk to the member of staff, learners or others.

The ability to give a valid consent may be affected by the student's level of understanding or other factors (e.g. under the influence of alcohol or drugs).

Authorised staff have the statutory power to search learners or their possessions, without consent, where they have reasonable grounds for suspecting that the learner may have an item prohibited by law or banned by the College's rules ("prohibited items"). These items are prohibited:

- Knives or weapons
- Alcohol (except within Radmoor Restaurant)
- Illegal drugs
- Stolen items
- Fireworks
- Pornographic images
- 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).

All of the above items are prohibited under College rules regardless of the age of the learner, even if some of the items are only banned at law for learners under 18.

#### 4.2 Confiscation

College 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 the college.

#### 4.3 **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 a college (or any public body) must be justified and proportionate.

The powers to search contained in the Education Act 1996 are compatible with Article 8. Through compliance with this policy and procedure, Loughborough College will be able to demonstrate that it has acted in accordance with Article 8 and that the search was lawful.

#### 4.4 **Establishing grounds for a search without consent**

Authorised staff can only undertake a search without consent if they have reasonable grounds for suspecting that a learner may have in his or her possession a prohibited item.

Authorised staff must decide in each particular case what constitutes reasonable grounds for suspicion. For example, the Authorised staff or another member of College staff may have heard other learners talking about the item or might notice a learner behaving in a way that causes them to suspect that the learner is concealing a prohibited item.

The search powers allow Authorised staff to search regardless of whether the learner is found after the search to have that item. This includes circumstances where staff suspect a learner of having items such as illegal drugs or stolen property which are later found not to be illegal or stolen.

Authorised staff may wish to consider utilising CCTV footage in order to make a decision as to whether to conduct a search for an item; this will follow the CCTV usage guide lines.

#### 4.5 **Location & circumstances of a search**

Searches with or without consent can only be carried out on the College estate or, if elsewhere, where College staff have lawful control or charge of the learner.

All searches should be conducted in an appropriate space which give privacy and security but does not create a conflicting site situation.

Searches with consent should wherever possible be carried out with another member of staff as a witness and in circumstances that protect both the staff and the learner from allegations.

Searches without consent will be carried out by an Authorised member of staff and another member of staff as a witness. At least one of these members of staff must be of the same sex as the learner being searched. The limited exceptions are that a search without consent can be carried out by an Authorised member of staff of the opposite sex and/or without a witness, but only where the searcher reasonably believes that there is a risk that serious harm will be caused to a person if the search is not carried out immediately and it is impossible to summon another member of staff. The witness should be a member of staff Authorised to search without consent, but can be a non-authorised member of staff if necessary.

#### 4.6 Recording the search

All searches will be recorded in the security incident reports and, when required, in the learners' individual learner plan (ILP).

All requests to surrender an item and all searches with consent will be recorded in the learners' individual learner plan (ILP), noting:

- Date, time and place of search
- Who carried out the search
- Who else was present
- Why the search was carried out
- What happened and what was said
- Whether any item was found or surrendered
- Outcomes and follow-up actions

Body worn cameras are used on site and during without consent searches to collect evidence and to ensure the safety of staff and students during the search.

Information taken at the time of a without consent search:

- Name, date of birth, gender, ethnicity of every learner searched
- Grounds of suspicion
- Date, time and place
- Who searched
- Who else was present
- What if any reasonable force was used, and if so why
- How the search began and progressed
- The learners responses and how staff managed them (e.g. steps taken to calm the learner)
- Anything said by the learner
- Outcomes and follow-up actions
- Storage location of bodycam footage or and/other evidence

#### 4.7 Use of force

Authorised staff can use such force as is reasonable given the circumstances when conducting a search for knives or weapons, alcohol, illegal drugs, stolen items, fireworks, pornographic images or articles that have been or could be used to commit an offence or cause harm.

### 4. General Data Protection Regulations

Where images of living, identifiable individuals are deliberately recorded or data is captured, this is likely to compromise those individual's personal data. The collection, use and storage of personal data are governed by GDPR.

Given that any particular sequence of recording may include personal data; all such recordings will be treated in accordance with the data protection principles. The principles are set out in full in appendix 2.

Data subject's rights, including a right of access to their personal data will be respected where recordings of information are confirmed to comprise personal data. Where an individual requests

access to recordings believed to be their personal data, the matter shall be referred to the college data protection officer ([DPO@loucoll.ac.uk](mailto:DPO@loucoll.ac.uk)).

## 5. Related Documents

- GDPR and the Data Protection Act 2018
- Information Security Policy
- Access Control Policy
- Physical Security Policy
- Network Security Policy
- Electronic Messaging Policy
- Website Policy
- Safeguarding Policy

## 6. Location and Access to the Policy

- College Website Policies and Procedures

## 7. Persons Responsible for the Policy

- Senior estates manager

## 8. Linked Policies and Procedures

- Learner Disciplinary Policy and Procedure
- Safeguarding Policy
- Equality and Diversity Policy
- Code of conduct

## 9. Change log

Date	Version	Details of change	Review / Revision by	
			Name	Title
21/03/23	1.0	General review	Dale Richardson	Dir of Estates & Sustainability

## Appendix 1

### Search Procedures

#### 1. Reasonable Suspicion (which allows a search to take place without consent)

If Authorised staff suspect a prohibited item is somewhere in the College or at the location of an offsite educational visit, they can search any learner if they have reasonable grounds for suspecting that they may have a prohibited item with them or in their possession. This is a legal standard and not a subjective one; the searcher must assess what constitutes, in each particular case, reasonable grounds for suspicion that a learner may have a prohibited item with them or in their possession.

Suspicion should be based on facts relevant to the likelihood of finding a prohibited item. Reasonable suspicion will rarely be supported on the basis of personal factors alone, without reliable supporting intelligence or information about some specific behaviour by the learner to be searched.

For example, a learner's race, age, appearance, or any isolated instance of misbehaviour previously recorded must not be used alone or in combination with each other as the reason for suspecting that learner. Reasonable suspicion cannot be based on generalisations or stereotypical images of certain groups or categories of learners as more likely to be in possession of a weapon.

#### 2 Options before a search without consent

The college will only use the power of search without consent if they have first exhausted other appropriate options:

- (a) Where staff suspect a learner is in possession of a prohibited item, they should seek to confirm or allay their suspicion by questioning the learner;
- (b) If questioning confirms suspicion, staff should ask the learner to surrender the prohibited item, or to turn out their pockets or allow a search of the learner's bags or possession (if relevant), reminding them about College code of conduct.
- (c) If the learner does not surrender the prohibited item or does not allow a search with consent, or if the search is inconclusive but suspicion remains, staff should request security so that Authorised staff can carry out a search without consent.
- (d) If Authorised staff decide a search would not be safe or a learner refuses to co-operate in a search, the Authorised staff will require the learner to leave the premises, with further support from security if required.

The power to search is not a duty: it should only be used where it is judged safe to do so. In particular, if it is believed that a learner is carrying a weapon and is likely to resist a search physically, College staff should call the security staff to take over the search process and if this is not possible security will call the police to conduct a search and remove the learner if needed.

#### 3 Extent of Search – Clothes and Possessions

A search with consent is limited under this policy to a request to surrender an item, a request to turn out pockets or to inspect a bag or item within the control of the learner.

The power to search without consent enables a personal search, involving removal of outer clothing and the learner turning out their own pockets; but not an intimate search going further than that, which only a person with more extensive powers (e.g. a police officer) can do.

The Authorised staff carrying out the search can require the learner to remove outer clothing (e.g. a coat, jacket, pullover, boots/shoes) if it is necessary for the search. If the learner does not allow a search with or without consent and Authorised staff still suspect a prohibited item is being carried, they should be asked to leave the premises with the further support of the Security team and a request that the EXEC advise the police. This option is always available: the College can stop the search at any point and request EXEC call the police instead. (Resisting a police search can be a criminal offence.)

Authorised staff must not require a searched learner to remove, and must not themselves remove, clothes beneath outerwear: e.g. trousers, skirt, sari, shirt, blouse, shalwar-kameeze (tunic and trousers), socks and tights. Nor should staff seek the voluntary removal of such clothes. Learners volunteering to remove such clothes should be required not to do so. *Staff must be careful not to touch or hold a learner indecently unless trained to do so.*

#### Search of possessions:

The power to search (whether with or without consent) extends to a search of the learner's possessions or items over which the learner has control, including (but not limited to) rucksacks, handbags, bags, electronic devices, desks, lockers, cycle lockers, gym lockers, motor vehicles.

Any search of a learner's personal possessions must be carried out in the presence of the learner. Any search of items belonging to the College but over which the learner has control (e.g. lockers) can be carried out with or without the learner present. If the search of possessions or of items over which the learner has control is carried out without consent or in the learner's absence, the search must be carried out by an Authorised member of staff with another member of staff as a witness, and with bodycam recording (see clause 4.5 above).

#### Electronic devices:

Where a member of College staff conducting a search finds an electronic device that they reasonably suspect has been, or is likely to be, used to commit an offence, put a child at risk or cause personal injury or damage to property, they may examine any data or files on the device where there is good reason to do so.

Data and files on an electronic device belonging to a learner must only be searched in the presence of the learner. Data and files on an electronic device, account or system belonging to the college but over which the learner has control can be searched without the learner present. Authorised staff can request the assistance of a member of the College's IT Department in carrying out a search of an electronic device, but must remain present throughout the search.

Refusal to allow access to the electronic files held on a device or on an account accessed through the device (eg by refusing to remove/disclose a password) may be treated as grounds for confiscation of the device and/or for requiring the learner to leave the premises, as appropriate.

- 4 Reasonable steps should be taken to preserve the dignity and privacy of any searched learner:

- Searching out of sight of other learners or staff passing by – though privacy may not always be possible, e.g. where staff decide to search a line of learners waiting to board a coach.
- Searchers should be sensitive to issues of race, culture or religion, e.g. where a learner's customary head covering or other outer clothing has religious or cultural associations.
- Learners who are Sikhs might carry, as a religious duty, a ceremonial knife (kirpan). Since this is legitimate item, staff should ask a Sikh learner to declare it before being screened or searched in the same way as other legitimate metallic objects (e.g. keys or coins) should be declared.
- The extent of the search should not exceed what is reasonably necessary.

## 5 After the Search

Any item surrendered without a search, or found after a search (with or without consent) must be handed to, and dealt with by, Authorised staff – a receipt will be provided to provide an audit trail, and the item will be recorded in the security log.

Provided that it is reasonable in the circumstances, and subject to the following particular cases, the Authorised staff may then:

- Retain the item temporarily and later return it to the learner when the learner leaves the College site (e.g. a learner over 18 found in possession of alcohol contrary to College rules);
- Retain it indefinitely;
- Dispose of it or destroy it
- Deliver it to the police

Authorised staff should consult with EXEC if there is uncertainty over how to deal with the item.

The delivery of the item to the Authorised staff must be recorded in writing. The decision regarding retention or disposal of the item and the reasons for that decision, including any advice obtained, must be recorded in writing.

Particular cases:

- Alcohol or fireworks must not be returned to a person under 18.
- Illegal drugs must be delivered to the police as soon as possible, but may instead be disposed of by an Authorised staff if he/she thinks there is good reason to do so.
- Items believed to be stolen must be delivered to the police as soon as reasonably practicable, but may be returned to the owner (or disposed of if returning to the owner is not practicable) if the Authorised staff thinks there is good reason to do so. (eg. a low value item stolen from a fellow student could be returned to the owner without police involvement; a high value item such as a laptop may need police involvement even if it can be returned to its owner).
- Weapons or items which are evidence of an offence must be passed to the police as soon as possible.
- Pornography may be disposed of or deleted, unless the Authorised member of staff has reasonable grounds to believe that its possession constitutes a specified offence (extreme



or child pornography) in which case it must be delivered to the police as soon as reasonably practicable.

- Data or files which are found on an electronic device and which have been, or could be, used to put a child at risk, cause personal injury or damage to property or break College rules (including the Safeguarding policy) can be deleted if there is good reason to do so. The Authorised staff must deliver to the police any electronic device where they reasonably suspect that:
  - Possession of any of the data or files is an offence
  - The data or files have been, or are likely to be, used to commit an offence
  - The data or files are evidence of an offence.

If no prohibited item is discovered by a search, the College can decide to take no further action, but should still:

- Record the outcome on the college related documents such as ILP and security log
- Consult with Designated Safeguarding Lead
- Inform the learner's parent (if under 18)
- Inform the College's governing body annually of how many searches took place under the Policy, and the results.

## 6 Records

Given that a learner holding prohibited item on College premises could also be committing a criminal offence, it is possible that the learner will be arrested by the police, and that members of staff involved in the search will be called as witnesses in a criminal prosecution. Staff conducting a search may also be open to challenge by a learner or their family, whether or not a prohibited item is found.

A written record will be kept of any occasion when a learner is searched for any prohibited item.

For a search with consent or request to surrender an item, the record will be made in the learner's ILP and should include:

- Date, time and place of search
- Who carried out the search
- Who else was present
- Why the search was carried out
- What happened and what was said
- Whether any item was found or surrendered
- Outcomes and follow-up actions

For a search without consent, the record will be made in the learner's ILP and in the security log, and should include:

- Name, date of birth, gender, ethnicity of every learner searched
- Any known or apparent SEND profile of the learner
- Grounds of suspicion
- Date, time and place
- Who searched
- Who else was present
- What if any reasonable force was used, and if so why

- How the search began and progressed
- The learners responses and how staff managed them (e.g. steps taken to calm the learner)
- What was said by the staff and learner immediately prior to, during and immediately after the search
- Outcomes and follow-up actions

## 7 **Informing Parents: Complaints**

The College is not required by law to inform a parent before a search or seek parental consent, but a parent might feel concerned about their child being searched.

The College should generally inform parents of learners under 18 years old when their child has been searched, and offer an opportunity to discuss the matter. (Informing parents does require the learner consent and is not a legal requirement). Any complaints will be dealt with through the complaints policy.

## Appendix 2

### Data Protection Principles

“Processing” shall be taken to mean all operations in relation to Personal Data including obtaining, recording, storing, analysing or converting into other formats.

1. Personal data shall be processed fairly and lawfully
2. Personal data shall be obtained only for one or more specified and lawful purposes and shall not be processed in a manner incompatible with those purposes
3. Personal data shall be adequate, relevant and not excessive in relation to the purpose for which the data is held
4. Personal data shall be accurate and, where necessary, kept up to date
5. Personal data shall not be held longer than is necessary in relation to the stated purposes
6. Personal data will be processed in accordance with the rights of data subjects under the Data Protection Act 2018
7. The data controller (the College) shall take appropriate security measures to prevent unauthorized or accidental access to, alteration, disclosure or loss and destruction of personal data.
8. Personal data will not be transferred outside the European Economic Area without ensuring an adequate level of protection in relation to the processing of personal data