



LINCOLN COLLEGE

**SEARCHING, SCREENING AND
CONFISCATION POLICY**

2020 - 2021

POLICY SG/PO/02

SPONSOR

Safeguarding Team Leader

EQUALITY AND DIVERSITY STATEMENT

Lincoln College strives to treat all its members and visitors fairly and aims to eliminate unjustifiable discrimination on the grounds of gender, race, nationality, ethnic or national origin, political beliefs or practices, disability, marital status, family circumstances, sexual orientation, spent criminal convictions, age or any other inappropriate grounds.

SEARCHING, SCREENING AND CONFISCATION POLICY

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LINCOLN COLLEGE

SEARCHING, SCREENING AND CONFISCATION POLICY

1 PURPOSE

The Department of Education guidance on Searching, Screening and Confiscation sets out the statutory powers provided to staff which allows the searching and screening of students. This policy is provided to instil confidence in staff to use those powers if and when needed and in particular the use of the power to search students without consent. It explains the powers college staff have to seize and then confiscate items found during a search. The legislation covering these powers are set out in paragraph 12.

2 AIM

- To allow a transparent and fair document to inform staff, students and visitors as to the College policy on searching, screening and confiscation
- To inform College staff of their powers in relation to the searching of students
- To advise on actions to be undertaken when material or items are found
- To allow the College to be a safe environment for staff, students and visitors

This policy needs to be read in conjunction with the following related policies and procedures:

- Drugs and Alcohol Policy
- Safeguarding Policy
- Learner Conduct Procedures
- Knives and Dangerous Weapons Policy
- Guide to Organising Visits, Journeys and Activities
- Equality and Diversity Policy

3 SEARCHING

The Managing Director of Education, Training and Delivery (MD) and authorised staff can search any student for any item with the students consent. Authorised staff means any adult who is employed at the college in a position of responsibility or authority with regard to the student body. Lincoln College have authorised a number of staff to undertake searches of students and their possessions. These staff members have received training on the legislation and principals related to searching. A list of those staff authorised to search students is held by Human Resources.

The MD and authorised staff have the statutory power to search students, or their possessions¹, with or without consent where they have **reasonable grounds for suspecting** that the student may have a prohibited item in their possession.

¹ Possessions means any goods over which the student has, or appears to have, control – this includes desks, lockers and bags

A prohibited item for a student of any age is:

- Knives or weapons
- 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 the property of, any person (including the student)²

For students aged under 18 a prohibited item also includes:

- Alcohol
- Fireworks
- Pornography

A student aged under 16 years can also be searched for tobacco products.

4 CONFISCATION

College staff can seize any prohibited item found as a result of a search. They can also seize any item, however found, which they consider harmful or detrimental to college discipline.

5 SCREENING

The MD and authorised staff can require students to undergo screening by a walkthrough or hand held metal detector (arch or wand) even if they do not suspect them of having a weapon and without the consent of the student. Colleges' statutory power to make rules on student behaviour and their duty as an employer to manage the safety of staff, students and visitors enables them to impose a requirement that students undergo screening.

If a student refuses to be screened, the College may refuse to have a student on the premises. Health and Safety legislation requires a College to be managed in a way which does not expose students or staff to risks to their health and safety and this would include making reasonable rules as a condition of admittance.

If a student fails to comply, and the College does not let the student in, the College has not excluded the student and the student's absence will be treated as unauthorised. In the case of a student being under the age of 18 then the guidelines set out in the Safeguarding Policy should be adhered to regarding the duty of care to the student and ensuring their safe return home or making arrangements with a parent/carer to facilitate the students care.

6 SEARCHING WITH CONSENT

College staff have a common law power to search students, with their consent, for any item. Staff are not required to have formal written consent from the student for this type of search. It is enough for the member of staff to ask the

² Section 3 Education Act 2011

student to turn out their pockets or to allow the member of staff to look in the student's bag or locker with the agreement of the student.

In undertaking a search with consent any vulnerability of the student should be considered such as any Special Educational Needs (SEN) or learning difficulties. In these circumstances a member of the Assessment and Support Team should be present to support the student and where needed to assist in any search.

It is the policy of Lincoln College that this type of search will be recorded on the College Safeguarding Database. To facilitate this a proforma aide memoire is attached at appendix A which should be used and forwarded to the Safeguarding Team. The details can also be e-mailed to safeguarding@lincolncollege.ac.uk.

7 SEARCHING WITHOUT CONSENT

Legislation sets out the powers a member of staff has in regards to searching a student without consent. Staff members can only undertake a search without consent if they have **reasonable grounds for suspecting** that a student may have in their possession a **prohibited item**. The staff member must decide in each particular case what constitutes reasonable grounds for suspicion. An example may be overhearing students talking about being in possession of a prohibited item or a student behaving in a way causing suspicions to be raised.

As with a search with consent, consideration must be given to any additional support needs that the learner may have and a member of the Assessment and Support Team should be present where ever possible..

This type of search would again require the completion of a search record, or an e-mail covering the information, which should be forwarded to the Safeguarding Team.

8 DURING THE SEARCH

The staff member conducting the search will be the same sex as the student being searched. There will be a witness (also a staff member) and, if possible, they will also be the same sex as the student being searched. It is best practice to undertake any search of a student while another member of staff is present.

As far as the situation dictates, and within reason, the views of the person being searched as to the sex of the person conducting the search should be taken into consideration being mindful of the Equality and Diversity Policy. An example of this would be an individual who identifies themselves with a certain gender.

A limited exception to this rule is, **only** when you reasonably believe that there is a risk that **serious harm** will be caused to a person if you do not conduct the search immediately and where it is not **reasonably practicable** to summon another member of staff.

The member of staff conducting the search may not require the student to remove any clothing other than outer clothing. "Outer clothing" means clothing that is not worn next to the skin or immediately over a garment that is being

worn as underwear but “outer clothing” includes hats, shoes, boots, gloves and scarves.

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

If a student refuses to be searched then best practice will be to inform the student that, given the circumstances, the Police will be contacted to seek support in undertaking the search.

9 AFTER THE SEARCH

A staff member carrying out a search can seize anything they have reasonable grounds for suspecting is a prohibited item or is evidence in relation to an offence.

Where they find knives or weapons, these must be delivered or reported to the police for their collection.

Where they find controlled drugs, these must be delivered to the police as soon as possible but may be disposed of if the person thinks there is a good reason to do so. A good reason for disposal may be due to practicalities i.e. Staff and student are away from college premises and the quantity of drugs is minimal. In this scenario it may be reasonable to dispose of the drugs but the disposal should be witnessed by two members of staff to maintain integrity.

Where they find other substances which are not believed to be controlled drugs these can be confiscated where a member of staff believes them to be harmful or detrimental to good order and discipline. This would include, for example, so called ‘legal highs’. Where staff suspect a substance may be controlled they should treat them as controlled drugs as outlined above i.e. prescription medication not prescribed for the person possessing.

Where they find stolen items, these must be delivered to the police as soon as reasonably practicable or collected by them. Items may be returned to the owner (or may be retained or disposed of if returning them to their owner is not practicable) if the person searching thinks that there is a good reason to do so. An example of this is where the monetary value is low. An example would be a magazine or hairbrush.

In relation to students under 18 where a search finds alcohol, fireworks or pornographic image this may be retained or disposed of. This means the college can dispose of as they think appropriate but this should not include returning it to the student. The same applies if a student under 16 is searched and tobacco products are found.

If a member of staff finds a pornographic image, that an individual should not possess, they may dispose of the image unless its possession constitutes a specified offence (i.e. it is extreme or child pornography) in which case it must be reported to the Police and collected by them and instructed. If images are discovered that do not constitute an offence but staff believe may have a

negative impact on the student then this should be referred to the Safeguarding Team.

In the instance of images being found that could possibly constitute an offence DO NOT copy, forward or otherwise alter the image(s).

Where an article that has been (or could be) used to commit an offence or to cause personal injury or damage to property is found it may be delivered to the police or retained or disposed of.

Staff have a defence to any complaint or other action brought against them. 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.

10 ADMINISTRATION

There is no statutory duty for staff to inform parents or carers of students aged under 18 before a search takes place or to seek their consent to search their child. Consideration should be given to contacting parents/ carers where there are concerns related to the students ability to understand the process being undertaken and advice sought from the Assessment and Support Team.

There is no legal requirement to make or keep a record of a search but it is Lincoln College policy to record any search conducted. Included in any record of a search should be the grounds for conducting the search and the object that was being searched for. Staff should identify those staff members involved in the search and whether any item was found. If an item is found the record should contain information as to the disposal or retention of it. This record should then be sent to the Safeguarding Team to put on the Safeguarding Database.

There is no legal requirement to do so but policy will be that when a student under 18 is searched then the parents/ carers will be contacted and informed.

11 ELECTRONIC DEVICES

The use of electronic devices by students provides additional concerns in regards to their welfare and safety as well as the potential for criminal offences to be committed. The college already has an Acceptable Use Policy in place which outlines the acceptable use of such devices inside and outside the college environment so its contents will not be duplicated here.

The authority to search for a device is outlined in Section 3 of the Education Act 2011 which allows authorised staff to search for any article that the member of staff reasonably suspects has been, or is likely to be, used to commit an offence. In addition staff can search for a device when they reasonably suspect that it contains data or files that have been, or could be, used to cause harm, to disrupt teaching or break the college rules.

The statutory guidance relating to electronic devices sets out that if such a device is found during a search then staff may examine any data or file held within the device if there is good reason to do so. Any member of staff undertaking such an examination should only examine as far as is reasonably

practicable to establish the facts of any incident. Any further intrusive examination of a device infringes Article 8 of the Human Rights Act (Right to a private life).

If returning a device to a student the member of staff may delete any data or file if there is good reason to do so.

In determining a good reason to examine or erase data or files the staff member must reasonably suspect that the data or file has been, or could be, used to cause harm.

Consideration should be given by the staff member undertaking the examination of a device not to cause further embarrassment or stress to the student in cases of self generated images being suspected.

If inappropriate material is found on the device then it is up to that member of staff to decide whether to delete that material or retain it as evidence of a criminal offence or a breach of college discipline. In the case of suspected criminal offences having been committed then the device should be retained, switched off if possible and the police contacted.

Examples of illegal material would be:

- Child sexual abuse images (including images of one child held by another being mindful of the E-safety Policy on Self Generated Sexual Images)
- Adult material that potentially breaches the Obscene Publications Act (person under 18 viewing pornography)
- Extreme pornography
- Criminally racist material
- extremist material falling under the PREVENT/ CHANNEL programme
- Other criminal conduct

In the case of material being deleted from a device, a record should be kept outlining the material that was deleted and the reasoning for this.

In the case of material being discovered that requires reporting to police then care should be taken not to delete or tamper with the files causing concern. The device should be switched off and stored securely.

12 LEGISLATION

Education Act 1996

Education and Inspections Act 2006

Health and Safety at Work Act 1974

Education Act 2011

Apprentices, Skills, Children and Learners (ASCL) Act 2009

Further Education Institutions and 16-19 Academies (Specification and Disposal of Articles) Regulations 2012

Further and Higher Education Act 1992

Misuse of Drugs Act 1971

13 INFECTIOUS DISEASES

The recent outbreak of COVID – 19 has made any risk assessment prior to a search more relevant.

In undertaking any dynamic risk assessment prior to a search it is important to have in mind what the purpose of the search is and what the consequences would be of not undertaking a search.

In simplistic terms it would not be advisable to undertake a search when there are concerns that someone may have an infectious disease, including COVID – 19, where the risk to yourself outweighs the need to search. Most situations can be resolved in some other way without placing yourself at significant risk by undertaking a search.

The use of legislation by staff to search a student is reserved for low level concerns and not as a tool for the investigation of criminal offences etc. Where there is evidence or information that would justify the involvement of the Police then they should be contacted for advice.

The decision to search a student is one for the individual to make and there is no compulsion under legislation for you to do so. In a situation where the matter can be resolved in other ways such as the Learner Conduct Procedures then all efforts should be made to take this course of action. If a decision is made to undertake a search then physical contact, if any, should be to a minimum and with the appropriate personal protection equipment which is available through the College.

The ultimate decision is one for the individual and if there is any doubt then advice should be sought from a Line Manager or a member of the Safeguarding Team.

Appendix A



Proud to
be part of

The
Lincoln College
Group

Search Record

This document should be completed on each occasion a student is searched whether with, or without , consent. Once completed this record should be forwarded to the Safeguarding Team at Student Services, Lincoln.

Date/ Time of Search:	Location:
Person searched:	Person(s) undertaking search:
Grounds: (<i>Why being conducted</i>)	Object: (<i>What are you looking for</i>)
Item(s) found:	Retention/ Disposal:
Properties present location:	Conclusion: (<i>agency, parent, other contacted</i>)