

Ormiston Academies Trust

## Cowes Enterprise Academy, an Ormiston Academy Searching, screening & confiscation policy

### Policy version control

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## 1. Introduction

### 1.1. Safety and welfare

- 1.1.1. The central aim of this policy is to enable the academy to carry out its duties to safeguard and promote the welfare of children by ensuring that disruptive, dangerous, or illegal items are removed from children and dealt with safely and lawfully.
- 1.1.2. This policy forms part of the academy's whole school approach to promoting the safeguarding and wellbeing of children. It seeks to ensure that the best interests of the child underpins, and is at the heart of all decisions, systems, processes and policies.
- 1.1.3. The academy also has a duty, under the Health and Safety at Work Act, to ensure all adults in the academy are safe and their welfare is promoted and protected.
- 1.1.4. This policy aims to ensure that staff, children and parents understand what will happen to confiscated items and to discourage children from bringing such items into the academy or onto school trips.
- 1.1.5. The policy also aims to ensure staff, children and parents understand when the academy will request support from other agencies e.g., statutory safeguarding partners, police, health service, social care.
- 1.1.6. Where 'parent' is used in this policy this should be taken to include guardian or carer.

## 2. Equality, diversity, and inclusion

- 2.1. This policy seeks to ensure that all children and adults are treated with respect in line with the Equality Act and learning from the Child Q child safeguarding practice review:

[Child-Q-PUBLISHED-14-March-22.pdf \(chscp.org.uk\)](#)

### 2.2. Legislative framework

- Coroners and Justice Act 2009
- Police and Criminal Evidence Act (PACE) 1984 Codes A+ C
- Criminal Justice and Immigration Act 2008
- Health and Safety at Work Act 1974
- The Education Act 1996
- The Education and Inspections Act 2006
- The Education (Independent School Standards) Regulations 2014
- The Schools (Specification and Disposal of Articles) Regulations 2012
- European Convention on Human Rights
- Equality Act 2010

### 2.3. Statutory guidance

- DfE Searching Screening and Confiscation: Advice for Schools
- KCSIE 2023
- Working Together to Safeguard Children
- The SEND Code of Practice 2014
- Use of Reasonable Force: Advice for headteachers, staff and governing bodies July 2013

## 2.4. Associated academy policies

- Child Protection and Safeguarding
- Behaviour
- Allegations against staff
- Whistleblowing

## 3. Prohibited and banned items

### 3.1. Prohibited items

3.1.1. 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 or weapons, alcohol, illegal drugs and stolen items;
- tobacco and cigarette papers, fireworks and pornographic images;
- any article that a 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 child)

### 3.2. Banned items<sup>1</sup>

3.2.1. The academy has identified the following as banned items as it reasonably believes them to be likely to cause harm or disruption.

- Vapes and electronic cigarettes
- Lighters and matches
- 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 child).
- tobacco and cigarette papers
- Fireworks
- Pornographic images
- Weapons

3.2.2. Children must not have these items in their possession on academy premises at any time when they are under the lawful charge and control of the academy staff e.g., external visits/trips.

## 4. Conducting searches for prohibited or banned items

4.1. A search can be considered if:

4.1.1. the child has consented to the search; or

4.1.2. a member of staff has reasonable grounds for suspecting that the child is in possession of:

- a prohibited item or

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<sup>1</sup> As identified in the academy behaviour policy in accordance with the School Behaviour (Determination and Publicising of Measures in Academies) Regulations 2012

- any item in the academy behaviour policy for which a search can be made (banned items).

4.2. A member of staff may search a child's outer clothing, pockets, possessions, desks or lockers or accommodation if on a school trip.

### 4.3. Clothing

4.3.1. Staff must not require the child to remove any clothing other than outer clothing.

4.3.2. Items which should not be removed:

- any item of clothing that is worn directly next to the skin
- any item of clothing worn directly over underwear

4.3.3. Professional judgement must be exercised where removing outer garments would cause humiliation or distress to a child. Reasonable adjustments should be considered.

### 4.4. Possessions

4.4.1. Possessions are any items over which the child has or appears to have control. This includes desks, lockers and bags.

4.4.2. Possessions can be searched for prohibited or banned items without consent.

4.4.3. Possessions can otherwise be searched for any item with the child's consent.

### 4.5. Reasonable grounds

4.5.1. Reasonable grounds for search include:

- a child is heard talking about an item
- a staff member is told directly about an item
- a staff member sees an item
- a staff member notices a child behaving in a way that causes suspicion that the child is concealing an item; or
- any other situation where a member of staff is of the reasonable opinion that a child is in possession of a banned item or a prohibited item

### 4.6. Making the decision to search for prohibited or banned items

4.6.1. An assessment of whether there are reasonable grounds to conduct a search should be made.

4.6.2. Additionally, an assessment should also be made as to how urgent the search is and the level of risk to other children and staff.

4.6.3. Consideration of Article 8 of the European Convention on Human Rights -the right to respect for private life should be made. Children have a right to expect a reasonable level of personal privacy see page 6 [Searching, Screening and Confiscation \(publishing.service.gov.uk\)](#)

4.6.4. The authorised member of staff should always seek the cooperation of the child, using de-escalation techniques where necessary.

4.6.5. Reasonable adjustments should be made for children with SEND, vulnerable children or children who have had a previous distressing experience of being searched.

4.6.6. A child's possessions can only be searched in the presence of the child 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 practical to summon another member of staff.

## 4.7. Where should a search take place?

- 4.7.1. An appropriate location for the search should be found. Where possible this should be away from other children. The search must only take place on the academy premises or where the member of staff has lawful control or charge of the child (e.g., on a school trip).

## 4.8. Who can search?

- 4.8.1. Only the principal and staff authorised by the principal may carry out searches for prohibited and banned items. Searches may only be carried out by staff members of the same sex as the child to be searched.
- 4.8.2. There must be another authorised member of staff present as a witness to the search
- 4.8.3. Wherever possible a child should be offered the choice of which of the authorised members of staff they would be comfortable with to complete the search and act as witness.
- 4.8.4. All authorised members of staff must have current Designated Safeguarding Lead /Level 3 training.
- 4.8.5. List of staff members authorised for searches in 2023-24:

- Mr Roger Lyon
- Mr Adam Brown
- Mrs Karen Jupe
- Mrs Rachel Kitley
- Mrs Jo Rudd
- Mrs Louise Iorio
- Ms Victoria Wells
- Miss Victoria Monaghan
- Mrs Charlene Thomas
- Mrs Vikki Lewis
- Mr James Milligan
- Miss Danielle Godfrey

## 4.9. How to gain informed consent

- 4.9.1. Before conducting a search explain to the child:

- why a search is being carried out
- how the search will happen
- where the search will take place

- 4.9.2. Where possible offer a trusted adult from academy staff to support the child, particularly if the child has communication, SEMH difficulties or other vulnerabilities which are barriers to understanding.

- 4.9.3. Time must be given to the child to ask questions about the search.

## 4.10. If a child refuses for a search to take place

- 4.10.1. If the child is unwilling to cooperate with the search, the authorised member of staff must give consideration as to the reasons why this might be. Reasons might include:

- they are in possession of a prohibited item
- they do not understand the instruction
- they are unaware of what a search may involve; or
- they have had previous distressing experience of being searched

- 4.10.2. Children must give informed consent and must not, by way of being threatened with sanctions, be coerced into a search.

4.10.3. If a child continues to refuse to cooperate after the authorised member of staff is sure that they have fully understood, the member of staff may:

- sanction the child in line with the academy's behaviour policy

4.11. request support from the police (if there are reasonable grounds for suspecting possession of weapons, illegal drugs, or there is an immediate life-threatening risk to the child or others).

## 4.12. When to call the police

4.12.1. The principal, or those authorised by the principal will follow the guidelines as set out in the document 'When to call the police', issued by The Police Chief's Council:

[When to call police guidance for schools and colleges.pdf \(npcc.police.uk\)](https://www.npcc.police.uk/when-to-call-police-guidance-for-schools-and-colleges.pdf)

4.12.2. The DSL must be informed if the police are being called and will refer the child to other services as appropriate i.e. children's social care

## 4.13. Use of reasonable force when searching for prohibited items

4.13.1. For the avoidance of doubt, reasonable force must only be used in the search for items on the prohibited list. (see 4.14 below). Reasonable force must not be used to search for banned items (see 3.2 above).

## 4.14. Prohibited items

- (a) knives or weapons, alcohol, illegal drugs and stolen items;
- (b) tobacco and cigarette papers, fireworks and pornographic images;
- (c) any article that a member of staff reasonably suspects has been, or is likely to be used:
  - (i) to commit an offence; or
  - (ii) to cause personal injury to, or damage to the property of, any person (including the child)

4.14.1. If a child refuses to co-operate with a search for a prohibited item, the principal, and staff authorised by the principal, may use reasonable force to search a child or a child's possessions where they have reasonable grounds for suspecting that a child has such a prohibited item.

4.14.2. Reasonable force may also be used to prevent a child harming themselves or others, damaging property or causing disorder (see DfE guidance: Use of reasonable force. Advice for headteachers, staff and governing bodies July 2013 [DfE advice template \(publishing.service.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/244444/Use_of_reasonable_force_guidance_for_headteachers_staff_and_governing_bodies_July_2013.pdf) ).

4.14.3. The use of reasonable force will only be used in exceptional circumstances and will follow DfE guidance.

## 4.15. Guidance on the use of sniffer dogs

4.15.1. In line with the 'DfE and ACPO drug advice for schools' (2012), principals have the right to invite the police or private companies to bring sniffer dogs onto academy premises.

Sniffer dogs can be used on the grounds of suspicion of illegal drugs or banned and prohibited items, or solely as a deterrent where there are no reasonable grounds for suspicion. Regardless of the purpose for using sniffer dogs, the academy must:

- have informed governors of the intent to use sniffer dogs
- have considered what action will be taken if drugs are found on any member of the academy community (including staff and visitors), and that this has been communicated clearly and is consistent with this policy
- have plans in place to respond to potential media interest



- notify the relevant Education Director, and OAT safeguarding and communications teams of the intent to use sniffer dogs

#### 4.16. Use of sniffer dogs to detect suspected illegal drugs

4.16.1. If the academy believes there is reasonable evidence of possession or supply of suspected illegal drugs, they should consult with the police in the first instance. Academies considering sniffer dog searches without the authority of a police warrant should exercise extreme caution and consider whether such action:

- is consistent with the pastoral responsibility of the academy to create a supportive environment
- is culturally sensitive – for example, dogs are considered unclean in Muslim and Buddhist cultures
- will lead to labelling and be damaging to children concerned
- will result in appropriate support for children most in need
- is feasible and an effective use of academy resources, and those of the police, where involved

4.16.2. The use of a sniffer dog with a child/children to detect suspected illegal drugs is considered ‘a search’ and must be conducted in line with sections 4 and 5 of this policy. In addition, the academy must:

- ensure parents/carers have given their consent (usually in writing) to the proposed use of sniffer dogs
- have procedures in place to remove children for whom consent is not given
- be sensitive to and respect the right to privacy of children whom the dog may identify either because they are taking prescription medicines or have been exposed to an environment where others have used drugs

#### 4.17. Use of sniffer dogs solely as a deterrent

4.17.1. The use of sniffer dogs as a deterrent should form part of a wider suite of strategies to support children in their drugs education. In addition to the guidance outlined at 4.15.1, academies should:

- Inform parents and children of the intention to use sniffer dogs as a deterrent and for educational purposes only
- Have an agreement in place with the dog handler that the academy will direct the use of the sniffer dog, ensuring that the location of the dog is restricted to general areas of the academy environment and avoids any proximity to or direct human contact
- Ensure plans are in place for appropriate actions to be carried out should the sniffer dog detect any illegal substances e.g. increased staff vigilance in identified areas, additional drugs education

### 5. Recording of searches

5.1. All searches, regardless of whether anything is found or not, must be recorded on CPOMS.

5.2. Included in the record must be:

- date, time, and location of the search
- name of child/children searched
- name and role of person conducting the search
- names of witness's present (adults and/or children)
- what was being searched for
- reasons for searching
- what items- if any, were found
- follow up action taken as a consequence of the search

### 5.3. Analysis of records

- 5.3.1. Principals should ensure that data is reviewed at least termly to analyse trends and patterns and ascertain if searches fall disproportionately on any particular groups of children, particularly those with protected characteristics.
- 5.3.2. If particular groups are over-represented, the academy should consider whether any actions should be taken to prevent this.
- 5.3.3. Data should be presented to governors at least termly.

### 5.4. Informing parents

- 5.4.1. Parents should always be informed of a search for a prohibited item and the outcome of the search as soon as is practicable.
- 5.4.2. The academy will consider if it is necessary to inform parents about a search for a banned item, as identified in the academy behaviour policy. This will be at the discretion of the academy who will exercise professional judgement and take into account any safeguarding concerns.

### 5.5. Strip searching

- 5.5.1. A strip search is a search involving the removal of more than outer clothing. No member of academy staff is authorised to carry out a strip search.
- 5.5.2. Only under exceptional circumstances would an academy facilitate a strip search of a child by the police.
- 5.5.3. Before calling the police into school the principal in consultation with the DSL (and SENCO, if the search relates to a child with SEND) should:
  - assess and balance the risk of a potential strip search on the child's mental and physical well-being
  - ensure less invasive approaches have been exhausted
- 5.5.4. In addition, unless there is immediate risk of harm the principal should also contact:
  - their Education Director/OAT safeguarding team for advice
  - the parent
- 5.5.5. Once the police are on site the decision as to whether to conduct a strip search or not lies solely with the police.
- 5.5.6. The role of the principal is then to advocate for the safety and well-being of the child involved.
- 5.5.7. Principals and senior leaders are required to be familiar with Police and Criminal Evidence Act 1984 (PACE) codes A and C and the child safeguarding practice review for Child Q: [Police and Criminal Evidence Act 1984 \(PACE\) codes of practice - GOV.UK \(www.gov.uk\)](#)  
[Child-Q-PUBLISHED-14-March-22.pdf \(chscp.org.uk\)](#)
- 5.5.8. Parents must always be informed once a strip search has taken place, as soon as practically possible but always on the same day.
- 5.5.9. Strip searches must be recorded on CPOMS.

### 5.6. The process the police must follow during a strip search

- 5.6.1. The police must ensure that:

- there are at least two people present other than the child, one of whom must be the appropriate adult
- where possible, and if requested, the parent is the appropriate adult
- the police officers carrying out the search must be of the same sex as the child
- no-one of a different sex to the child being searched must be present, unless the child has requested someone of the opposite sex to be their appropriate adult
- the search is carried out in a location which maintains the child's confidentiality and dignity and where they cannot be seen by others

## 5.7. Presence of an appropriate adult

- 5.7.1. Except in urgent cases i.e., immediate risk of harm, a strip search of a child may take place without an appropriate adult only if the child explicitly states in the presence of an appropriate adult (e.g., principal, DSL, parent, SENCO) that they do not want an appropriate adult to be present during the search and the appropriate adult agrees.
- 5.7.2. A signed record by the appropriate adult of the child's decision should be uploaded to on CPOMS.
- 5.7.3. The presence of more than two people, other than an appropriate adult, should be permitted only in the most exceptional circumstances.

## 5.8. When to strip search

- 5.8.1. Strip searching can be highly distressing for the child involved, as well as for staff and other children affected, especially if undertaken on school premises.
- 5.8.2. PACE Code C states that a strip search may take place only if it is considered necessary to remove an item related to a criminal offence, and the officer reasonably considers the child might have concealed such an item.
- 5.8.3. Strip searches should not be routinely carried out if there is no reason to consider that such items are concealed.

## 5.9. After-care following a strip search

- 5.9.1. Children and staff will be given appropriate support, irrespective of whether the suspected item is found.
- 5.9.2. If an item is found, this may be a police matter, but will always be accompanied by a safeguarding process handled by the DSL which gives attention to the child's wellbeing.
- 5.9.3. Safeguarding should also be at the centre of support following a strip search in which the item is not found, both in the sense of supporting the child to deal with the experience of being searched, and regarding wider issues that may have informed the decision to conduct a strip search in the first place.
- 5.9.4. In both cases, children should feel that they have an opportunity to express their views regarding the strip search and the events surrounding it.
- 5.9.5. The principal will review strip searches to ensure that preventative approaches are taken particularly for those children who have undergone more than one such search and for groups of children who are more likely to be subjected to strip searching with unusual frequency.

## 5.10. After-care following a search

- 5.10.1. Following the search, whether any items have been found or not, the DSL will consider all safeguarding and wellbeing implications arising out of:
- the reasons for the search
  - the search itself

- the outcome of the search

5.10.2. And will determine what, if any support internal to the academy or from external services is needed. This will be recorded on CPOMs with clear decision rationale and the voice of the child included in the record.

## 6. Screening

- 6.1. Screening is the use of a walk through or handheld metal detector (arch or wand) to scan all children for weapons before they enter the premises.
- 6.2. Academies have statutory powers to impose screening in order to keep children, staff and visitors safe (Independent School Standards (England) Regulations 2014, section 3 of the Health and Safety at Work etc. Act 1974).
- 6.3. Reasonable adjustments must be made for children with a special educational need and/or disability.
- 6.4. If an academy is considering the introduction of screening the principal should consult with the local police who can provide advice on whether screening is appropriate.
- 6.5. If a decision to introduce screening is made the principal will inform children and parents in advance to explain what the screening will involve and why it is being introduced.
- 6.6. If the wand indicates a child may be in possession of a banned or prohibited item, then a search may take place. Please see sections 4 and 5 above. All searches must be recorded. If a prohibited item is found, parents must be informed.
- 6.7. If a child refuses to be screened a member of staff should consider why the child is not cooperating and make an assessment of whether it is necessary to conduct a search.
- 6.8. Only authorised members of staff may conduct a search.

## 7. Confiscation and disposal of items

- 7.1. Confiscation is when a member of staff removes an item from a child where they have reasonable grounds for suspecting:
  - it poses a risk to staff or children
  - it is a prohibited item
  - it is a banned item under the academy behaviour policy
  - It is evidence in relation to an offence
- 7.2. The academy has a legal right to confiscate, retain or dispose of a child's property as a disciplinary penalty, where reasonable to do so (Education and Inspections Act 2006).
- 7.3. 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.
- 7.4. Items which have been or are likely to be used to commit an offence or to cause personal injury or damage to property will be delivered to the police as soon as is reasonably practical.
- 7.5. Members of staff will use their professional judgement when deciding to return, retain or dispose of any other items banned under the school rules.

7.6. Staff will take into account all relevant circumstances, and will consider:

- the value of the item
- whether it is appropriate to return the item to the child or parent; and
- whether the item is likely to continue to disrupt learning or the calm, safe and supportive environment of the academy

## 7.7. Confiscation of prohibited or illegal items

7.7.1. Prohibited items are:

- (a) knives or weapons, alcohol, illegal drugs and stolen items;
- (b) tobacco and cigarette papers, fireworks and pornographic images;
- (c) any article that a member of staff reasonably suspects has been, or is likely to be used:
  - (i) to commit an offence; or
  - (ii) to cause personal injury to, or damage to the property of, any person (including the child)

## 7.8. Controlled drugs

7.8.1. Controlled drugs are defined in the Misuse of Drugs Act 1971 as drugs which are dangerous and otherwise harmful and have the potential for abuse and misuse.

7.8.2. Common examples of controlled drugs include morphine, diamorphine, methadone, fentanyl, alfentanil, oxycodone, methylphenidate (found in some ADHD medication), dexamphetamine, ketamine and tapentadol.

[Controlled drugs list - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

7.8.3. In taking temporary possession and disposing of suspected controlled drugs, the academy will

- ensure a second adult witness is present
- seal the sample in a plastic bag and include details of the date and time of the seizure/find and witness present
- store it in a secure location on the academy premises
- notify the police immediately, who will collect it and then store or dispose of it. The law does not require a school to divulge to the police the name of the child from whom the drugs were taken but it is advisable to do so
- record full details of the incident, including the police incident reference number on CPOMS
- inform parents/carers, unless this is not in the best interests of the child
- identify any safeguarding concerns and develop a support and disciplinary response

7.8.4. If the police are unable to collect and dispose of the controlled drug, principals may use their professional judgement to determine if they can safely dispose of it. If a principal needs to dispose of a controlled drug they should seek advice from OAT health and safety team as how to do this safely.

7.8.5. Disposal by the principal must be witnessed by another member of staff, logged on CPOMS and reported as an incident through the OAT accident and incident reporting system.

## 8. Summary table

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	If suspected or actual evidence of a crime give to police or dispose of as appropriate (Speak to OAT H+S team for advice on safe disposal)
Tobacco or cigarette papers	If suspected or actual evidence of a crime give to police or dispose of as appropriate (Speak to OAT H+S team for advice on safe disposal)
Fireworks	If suspected or actual evidence of a crime give to police or dispose of as appropriate (Speak to OAT H+S team for advice on safe disposal)
Stolen items	Deliver to the police, return to the owner, or dispose of if there is a good reason to do so
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 cause injury or property damage	Deliver to the police, return to the owner, or dispose of if there is a good reason to do so
Pornographic material	Dispose of (NB - see the section above for detail)
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

### 8.1. Banned items (as listed in the behaviour policy)

- Vapes and electronic cigarettes
- Lighters and matches
- 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 child).
- tobacco and cigarette papers
- Fireworks
- Pornographic images
- Weapons

8.1.1. The academy will retain and dispose of these as appropriate. They will not be returned to the child or parent.

## 9. Other

### 9.1. Electronic devices

- 9.1.1. If any member of staff suspects they may find an indecent image of a child (sometimes known as nude or semi-nude images or youth-produced sexual imagery) on an electronic device, they must never intentionally view the image, and must never copy, print, share, store or save such images.
- 9.1.2. When an incident might involve an indecent image of a child and/or video, the member of staff should confiscate the device, avoid looking at the device and refer the incident to the DSL (or deputy) immediately.
- 9.1.3. Any device which is confiscated will be returned to the child or parent at the end of the school day, or by arrangement if the device is needed for further investigation

### 9.2. Exceptions to returns

- 9.2.1. Any device containing, (but not limited to)

- indecent images of children
- pornography
- abusive messages
- images or videos relating to suspected criminal behaviour

will be retained until such time as an investigation has taken place.

- 9.2.2. The DSL or member of the core safeguarding team will contact the police if a member of staff finds any image, data, or file that they suspect might constitute a specific offence.

### 9.3. Examining data or files on electronic devices

- 9.3.1. Staff designated by the principal, may examine any data or files on an electronic device that has been confiscated if there is good reason to do so.
- 9.3.2. In determining whether there is a 'good reason' to examine the data or files, there should be reasonable suspicion that the data or file on the device has been, or could be used, to cause harm, undermine the safe environment of the school and disrupt teaching, or be used to commit an offence.
- 9.3.3. If a member of staff finds any image, data, or file that they suspect might constitute a specified offence, it must be delivered to the DSL or principal who will arrange for delivery to the police as soon as is reasonably practicable.
- 9.3.4. In exceptional circumstance the DSL or principal may dispose of the image or data if there is a good reason to do so.

### 9.4. Disposing of data or images

- 9.4.1. The DSL /principal will consider whether material found on an electronic device may constitute evidence relating to a suspected offence.
- 9.4.2. In those instances, the data or files should not be deleted, and the device must be handed to the police as soon as it is reasonably practicable.
- 9.4.3. If the data or files are not suspected to be evidence in relation to an offence, the DSL/principal may delete the data or files if the continued existence of the data or file is likely to continue to cause harm to any person and the child and/or the parent refuses to delete the data or files themselves.