





Searching and Confiscation Policy
Holy Cross Primary Catholic Voluntary Academy







Contents Page

O	ur Lady of Lourdes Catholic Multi Academy Trust Mission Statement	3
1	Context	3
2	Searching	4
	The list of prohibited items:	4
3	The role of the headteacher, the designated safeguarding lead and authorised members of	
st	aff	5
4	Before searching	5
5	During a search	6
	Where we can search	6
	Who can search	6
	The extent of the search	6
	Strip searching	7
	The process the police must follow during a strip search	7
	After-care following a strip search	8
6	After a search	8
	Recording searches	8
	Informing Parents	
7	Confiscation	9
	Items found as a result of a search	9
	Prohibited or illegal items	9
	Electronic devices	
8.	Confiscation as a disciplinary penalty	. 12
9.	Further information	
	Other relevant departmental advice and statutory guidance	
	Other advice	12





Our Lady of Lourdes Catholic Multi Academy Trust Mission Statement

We are a partnership of Catholic schools and our aim is to provide the very best Catholic education for all in our community and so improve life chances through spiritual, academic and social development.

We will achieve this by:

Placing the life and teachings of Jesus Christ at the centre of all that we do.

Following the example of Our Lady of Lourdes by nurturing everyone so that we can all make the most of our God given talents.

Working together so that we can all achieve our full potential, deepen our faith and know that God loves us. Being an example of healing, compassion and support for the most vulnerable in our society.

Joshua 1:9-10 "Have I not commanded you? Be strong and courageous. Do not be afraid; do not be discouraged, for the Lord your God will be with you wherever you go."

1 Context

Our Lady of Lourdes CMAT (OLoL CMAT) and all its academies, fully recognises the responsibility it has under section 157 of the Education Act 2002 to have arrangements in place to safeguard and promote the welfare of children.

This policy is a whole school policy and applies to all pupils including those in the Early Years Foundation Stage. Care and consideration will be given to the age of the child when following the guidance in this policy.

This policy applies to all staff, volunteers and contractors, paid and unpaid, working in the school including governors.

This policy has been written using advice taken from Searching, Screening and Confiscation (**SSC**): Advice for Headteachers, school staff and governing bodies, July 2022.¹

The school acknowledges its legal duty to make reasonable adjustments for disabled children and children with special educational needs (SEN). Equality Act 2010²

Before screening or conducting a search of a pupil, it is vital that the school considers their obligations under the European Convention on Human Rights. Under Article 8³, pupils have a right to respect for their private life. In the context of these rights and obligations, this means that pupils 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 school (or any public body) must be justified and proportionate.

The powers to search in the Education Act 1996 are compatible with Article 8. A school exercising those powers lawfully should have no difficulty in demonstrating that it has also acted in accordance with Article 8. This advice will assist schools in deciding how to exercise their searching powers in a lawful way (SSC, pg. 6).

¹ Searching, Screening and Confiscation (publishing.service.gov.uk)

² Equality Act 2010: guidance - GOV.UK (www.gov.uk)

³ Human Rights Act 1998 (legislation.gov.uk)





2 Searching

Searching can play a critical role in ensuring that schools are safe environments for all pupils and staff. It is a vital measure to safeguard and promote staff and pupil welfare, and to maintain high standards of behaviour through which pupils can learn and thrive. Our school's behaviour policy⁴ is located on our website https://www.holycrossschoolhucknall.com/wp-content/uploads/sites/10/2022/09/Behaviour-Policy.pdf

Headteachers and staff they authorise have a statutory power to search a pupil or their possessions where they have reasonable grounds to suspect that the pupil may have a prohibited item listed in below or any other item that the School's Behaviour Policy ⁵ identify as an item which may be searched for.

The list of prohibited items:

- 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:
 - o to commit an offence, or
 - o to cause personal injury to, or damage to property of; any person (including the pupil).
- an article specified in regulations⁶:
 - tobacco and cigarette papers;
 - o fireworks; and
 - o pornographic images.

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

Being in possession of a prohibited item — especially knives, weapons, illegal drugs or stolen items — may mean that the pupil is involved, or at risk of being involved, in anti-social or criminal behaviour including gang involvement, and in some cases may be involved in child criminal exploitation. A search may play a vital role in identifying pupils who may benefit from early help or a referral to the local authority children's social care services. The DSL will ensure such referrals are made in a timely manner in line with the safeguarding and Child Protection Policy (CPP).

Our school's behaviour policy does outline the banned items for which a search can be made. This must include the list of <u>prohibited items above</u>, and may include other items which a headteacher has decided are detrimental to maintaining high standards of behaviour and a safe environment e.g. e-cigarettes or vapes.

The school's behaviour policy is communicated to all members of the school community to ensure expectations are transparent to all pupils, parents and staff, and provide reassurance that any searching of a pupil will be implemented consistently, proportionately and fairly, in line with the school's policy.

When exercising their powers, we will always consider the age and needs of pupils being searched or screened. This includes the individual needs or learning difficulties of pupils with Special Educational Needs (SEN) and we will make any reasonable adjustments that may be required where a pupil has a disability.

⁴ For more information on what should be included in a school's behaviour policy, see the <u>Behaviour in schools - GOV.UK (www.gov.uk)</u>

⁵ The Education (Independent School Standards) Regulations 2014 (legislation.gov.uk) See Schedule1, Paragraph 9.

⁶ The Schools (Specification and Disposal of Articles) Regulations 2012 (legislation.gov.uk)





3 The role of the headteacher, the designated safeguarding lead and authorised members of staff.

Only the headteacher, or a member of staff authorised by the headteacher, can carry out a search. The headteacher can authorise individual members of staff to search for specific items, or all items set out in the school'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. The headteacher may not require any other member of staff to undertake a search if they refuse.

Authorised Member of staff:	Authorised to:
Tammie McNamara (Headteacher) DDSL	Search all prohibitive items in the list
Rachael Tipton (Deputy Headteacher) DSL	Search all prohibitive items in the list
Sara Bruce (Acting Assistant Headteacher) DDSL	Search all prohibitive items in the list
Shirla Duong (Acting Assistant Headteacher)	Search all prohibitive items in the list
Jennifer Shelton (Mental Health First Aider) DDSL	Search all prohibitive items in the list

The headteacher will oversee the school's practice of searching to ensure that a culture of safe, proportionate and appropriate searching is maintained, which safeguards the welfare of all pupils and staff with support from the designated safeguarding lead (**DSL**) (or deputy (**DDSL**)).

The headteacher will ensure that a sufficient number of staff are appropriately trained in how to lawfully and safely search a pupil who is not co-operating, so that these trained staff can support and advise other members of staff if this situation arises. However, it is vital that all staff understand their rights and the rights of the pupil who is being searched.

If the DSL or DDSL finds evidence that any child is at risk of harm, they will make a referral to children's social care services immediately (as set out in part 1 of Keeping children safe in education). The DSL or DDSL will then consider the circumstances of the pupil who has been searched to assess the incident against potential wider safeguarding concerns. See below on recording searches.

4 Before searching

A search can be considered if the member of staff has reasonable grounds for suspecting that the pupil is in possession of a prohibited item or any item identified in the School's Behaviour Policy for which a search can be made, or if the pupil has agreed.

The authorised member of staff will make an assessment of how urgent the need for a search is and will consider the risk to other pupils and staff.

Before any search takes place, the member of staff conducting the search will explain to the pupil 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 will always seek the co-operation of the pupil before conducting a search. If the pupil 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 pupil continues to refuse to co-operate, the member of staff may sanction the pupil in line with the school's behaviour policy, ensuring that they are responding to misbehaviour consistently and fairly (See school's behaviour policy for more information on sanctions).

If the member of staff still considers a search to be necessary, but is not required urgently, they should seek the advice of the headteacher, DSL, DDSL or pastoral member of staff who may have more information about the pupil. During this time the pupil should be supervised and kept away from other pupils.

If the pupil 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 identified in **the list of prohibited items**, but not to search for items which are identified only in the School's Behaviour Policy ⁷. See guidance on the <u>Use of reasonable force in schools - GOV.UK (www.gov.uk)</u>. 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 pupil harming themselves or others, damaging property or from causing disorder⁸.

The use of reasonable force will differ depending on whether the member of staff is searching possessions or the pupil themselves.

5 **During a search**

Where we can search.

An appropriate location for the search will be found. Where possible, this will be away from other pupils. The search must only take place on the school premises or where the member of staff has lawful control or charge of the pupil, for example on a school trip.⁹ We will ensure that all staff are conversant with the laws and regulations of any country visited outside of England.

Who can search.

The law states the member of staff conducting the search must be of the same sex as the pupil being searched. **There** <u>must</u> 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.¹⁰

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 recording searches).

The extent of the search

A member of staff may search a pupil's outer clothing, pockets, possessions, desks or lockers.

⁷ Education Act 1996 (legislation.gov.uk)

⁸ Education and Inspections Act 2006 (legislation.gov.uk)

⁹ The powers to search outlined in this guidance only apply in England. When on a trip outside England, the law of that country should be followed.

¹⁰ Education Act 1996 (legislation.gov.uk)





The person conducting the search will 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. Our staff members will be sensitive to whether such outer clothing is worn for religious reasons when conducting a search.

'Possessions' means any goods over which the pupil has or appears to have control - this includes desks, lockers and bags.

A member of our staff is able to search trays and bags or other personal spaces at our school for any item provided the pupil agrees. If the pupil withdraws their agreement to search, a search may be conducted both for the <u>prohibited items</u> and any items identified in the School's Behaviour Policy for which a search can be made.

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. Refer to the "Who can search" section in this policy.

The member of staff's power to search outlined above does not enable them to conduct a strip search.

Strip searching

A strip search is a search involving the removal of more than outer clothing. Strip searches on school premises can only be carried out by police officers under the <u>Police and Criminal Evidence Act 1984 (PACE) codes of practice CODE A</u> and in accordance with the <u>Police and Criminal Evidence Act 1984 (PACE) codes of practice CODE C</u>. While the decision to undertake the strip search itself and its conduct are police matters, school staff retain a duty of care to the pupil(s) involved and should advocate for pupil wellbeing at all times.¹¹

Before calling police into school, staff will assess and balance the risk of a potential strip search on the pupil's mental and physical wellbeing and the risk of not recovering the suspected item. Staff will consider whether introducing the potential for a strip search through police involvement is absolutely necessary, and we will always ensure that other appropriate, less invasive approaches have been exhausted. Once the police are on school premises, the decision on whether to conduct a strip search lies solely with them, and the role of the school is to advocate for the safety and wellbeing of the pupil(s) involved.

Unless there is an immediate risk of harm and where reasonably possible, staff will inform a parent of the pupil suspected of concealing an item in advance of the search, even if the parent is not acting as the appropriate adult. Parents will always be informed by a staff member once a strip search has taken place. We will keep records of strip searches that have been conducted on school premises and monitor them for any trends that emerge.

The process the police must follow during a strip search

Except in cases of urgency where there is risk of serious harm to the pupil or others, whenever a strip search involves exposure of intimate body parts there will be at least two people present other than the pupil, one of which must be the appropriate adult. If the pupil's parent would like to be the appropriate adult, the school will facilitate this where possible. Police officers carrying out the search must be of the same sex as the pupil being searched. An appropriate adult not of the same sex as the pupil being searched may be present if specifically requested by the pupil. Otherwise, no-one of a different sex to the pupil being searched is permitted to be present, and the search must not be carried out in a location where the pupil could be seen by anyone else.

¹¹ From a pupil wellbeing perspective, we will wish to involve an appropriate adult as a matter of course during all searches conducted by police

¹² The role of the appropriate adult is to safeguard the rights, entitlements and welfare of children and vulnerable adults in police custody. This adult will not be a police officer or otherwise associated with the police. Examples of an appropriate adult include, but are not limited to, a parent, relative, social worker, teacher or, if the person is in the care of a local authority or voluntary organisation, a person representing that authority or organisation. Note that an appropriate adult is not required when a pupil is eighteen or above.





Except in urgent cases as above, a search of a pupil may take place without an appropriate adult only if the pupil explicitly states in the presence of an appropriate adult that they do not want an appropriate adult to be present during the search and the appropriate adult agrees. A record should be made of the pupil's decision and signed by the appropriate adult. The presence of more than two people, other than an appropriate adult, shall be permitted only in the most exceptional circumstances.

Strip searching can be highly distressing for the pupil involved, as well as for staff and other pupils affected, especially if undertaken on school premises. <u>PACE Code C</u> 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 pupil might have concealed such an item.

Strip searches should not be routinely carried out if there is no reason to consider that such items are concealed

After-care following a strip search

Pupils will be given appropriate support, irrespective of whether the suspected item is found.

If an item is found, this may be a police matter, but should always be accompanied by a safeguarding process handled by the school which gives attention to the pupil's wellbeing and involves relevant staff (DSL and or DDSL). Safeguarding will 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 pupil 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. In both cases, pupils should feel that they have an opportunity to express their views regarding the strip search and the events surrounding it. School staff will give particular consideration to any pupils who have been strip searched more than once and/or groups of pupils who are more likely to be subjected to strip searching with unusual frequency, and consider preventative approaches.

6 After a search

Whether or not any items have been found as a result of any search, we will 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, we will follow the school's child protection policy and speak to the DSL and DDSL as set out in Part 1 of Keeping children safe in education. We will consider if pastoral support, an early help intervention or a referral to children's social care is appropriate.

If any <u>prohibited items</u> are found during the search, the member of staff will follow the guidance set out below on <u>confiscation</u>.

If a pupil is found to be in possession of a <u>prohibited item</u>, then our staff member will alert the DSL and or DDSL and the pupil should be sanctioned in line with our school's behaviour policy to ensure consistency of approach.

Recording searches

Any search by a member of our staff for a <u>prohibited item</u> and all searches conducted by police officers will be recorded on CPOMs, including whether or not an item is found. This will allow the DSL and DDSL to identify possible risks and initiate a safeguarding response if required. Headteachers will also ensure that all searches for items banned by the School's Behaviour Policy should be recorded.

Staff members will follow the school policy in these cases.

We will record:





- the date, time and location of the search;
- which pupil was searched;
- who conducted the search and any other adults or pupils present;
- what was being searched for;
- the reason for searching;
- what items, if any, were found; and
- what follow-up action was taken as a consequence of the search.

In the Searching, Screening and Confiscation guidance, July 2022 it states that "Schools who conduct a high number of searches should consider whether the searches fall disproportionately on any particular groups of pupils by analysing the recorded data. In such cases where searching is falling disproportionately on any group or groups, they should consider whether any actions should be taken to prevent this." See also paragraphs 108-110 of Behaviour in Schools.

Informing Parents

Our school will reinforce the whole-school approach by building and maintaining positive relationships with parents. Parents will always be informed of any search for a <u>prohibited item</u> that has taken place, and the outcome of the search as soon as is practicable. A member of staff will inform the parents of what, if anything, has been confiscated and the resulting action the school has taken, including any sanctions applied.

We will consider that in some circumstances it might also be necessary to inform parents of a search for an item banned by our school policy.

Any complaints about searching, screening or confiscation should be dealt with through the normal school and Trust's complaints procedure.

7 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's Behaviour Policy for which a search can be made; 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 so¹³. In these cases, the member of staff will safely dispose of the drugs. In determining whether there is a good reason to dispose of controlled drugs, the member of staff will have regard to the following guidance below issued by the Secretary of State.

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.

¹³ Legally, schools do not have to give the name of the pupil from whom drugs have been taken to the police. Schools should consider this on a case-by-case basis. Please see the <u>Advice template (publishing.service.gov.uk)</u> for more information on the relevant powers and duties in relation to powers to search for and confiscate drugs, liaison with the police and with parents.





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**, **e cigarettes**, **vape 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 practicable¹⁴. 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. See below for further advice on searching electronic devices.

Where a member of staff finds stolen items, these will be delivered to the police as soon as 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. In determining whether there is a good reason to return the stolen item to its owner or retain or dispose of the item, the member of staff will have regard to the following guidance issued by the Secretary of State below.

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 will be delivered to the police as soon as reasonably practicable, returned to the owner, retained or disposed of. In deciding what to do with such an item, the member of staff will have regard to the guidance issued by the Secretary of State below.

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.

¹⁴ Section 62 <u>Coroners and Justice Act 2009 (legislation.gov.uk)</u> defines prohibited images of children. Section 63 of the <u>Criminal Justice and Immigration Act 2008 (legislation.gov.uk)</u> defines extreme pornographic images.





Members of staff should use their judgement to decide to return, retain or dispose of any other items banned under the School's Behaviour Policy. In deciding what to do with such an item, the member of staff must have regard to the guidance issued by the Secretary of State below.

The member of staff will 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.

Electronic devices

Electronic devices, including mobile phones, can contain files or data which relate to an offence, or which may cause harm to another person. This includes, but is not limited to, indecent images of children, pornography, abusive messages, images or videos, or evidence relating to suspected criminal behaviour.

As with all prohibited items, staff will first consider the appropriate safeguarding response if they find images, data or files on an electronic device that they reasonably suspect are likely to put a person at risk.

Staff may examine any data or files on an electronic device they have confiscated as a result of a search, as defined in Items found as a result of a search, if there is good reason to do so.

If the member of staff conducting the search suspects they may find an indecent image of a child (sometimes known as nude or semi-nude images), the member of staff will never intentionally view the image, and will never copy, print, share, store or save such images.

When an incident might involve an indecent image of a child and/or video, the member of staff will confiscate the device, avoid looking at the device and refer the incident to the DSL and or DDSL as the most appropriate person to advise on our school's response.

Handling such reports or concerns can be especially complicated and we will follow the principles as set out in Keeping children safe in education. The UK Council for Internet Safety also provides the following guidance to support school staff and designated safeguarding leads: Sharing nudes and semi-nudes: advice for education settings working with children and young people - GOV.UK (www.gov.uk).

If a member of staff finds any image, data or file that they suspect might constitute a specified offence, then they will be delivered to the police as soon as is reasonably practicable.

In exceptional circumstances members of staff may dispose of the image or data if there is a good reason to do so. In determining a 'good reason' to examine or erase the data or files, the member of staff will have regard to the following guidance issued by the Secretary of State below.

In determining whether there is a 'good reason' to examine the data or files, the member of staff will reasonably suspect 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.

In determining whether there is a 'good reason' to erase any data or files from the device, the member of staff will consider whether the material found may constitute evidence relating to a suspected offence. In those instances, the data or files should not be deleted, and the device will be handed to the police as soon as it is reasonably practicable. If the data or files are not suspected to be evidence in relation to an offence, a member of staff 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 pupil and/or the parent refuses to delete the data or files themselves.

8. Confiscation as a disciplinary penalty

Schools' general power to discipline enables a member of staff to confiscate, retain or dispose of a pupil's property as a disciplinary penalty, where reasonable to do so 15 .

The law protects members of our 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.

¹⁵ Education and Inspections Act 2006 (legislation.gov.uk)





9. Further information

Other relevant departmental advice and statutory guidance

Behaviour in schools - GOV.UK (www.gov.uk)

School and college security - GOV.UK (www.gov.uk)

Equality Act 2010: advice for schools - GOV.UK (www.gov.uk)

Keeping children safe in education - GOV.UK (www.gov.uk)

Use of reasonable force in schools - GOV.UK (www.gov.uk)

Working together to safeguard children - GOV.UK (www.gov.uk)

Drugs: advice for schools - GOV.UK (www.gov.uk)

Other advice

Sharing nudes and semi-nudes: advice for education settings working with children and young people - GOV.UK (www.gov.uk)

Police and Criminal Evidence Act 1984 (PACE) codes of practice - GOV.UK (www.gov.uk)

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