Confiscation and Search Policy

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Aims

This policy should be read together with the behaviour policy and the DFE guidance 'Screening Searching and confiscation – Advice for head teachers, school staff and governing bodies' (January 2018).

In section 1, this policy outlines schools' powers to screen and search pupils, in particular searching pupils without consent. In section 2, it explains the powers schools have to seize and then confiscate items found during a search.

Section 1: Searching

Searching with Consent

Any member of staff can search pupils with their consent for any item.

Schools are not required to have formal written consent from the pupil for this sort of search – it is enough for the teacher to ask the pupil to turn out his or her pockets or to ask if the teacher can look in the pupil's bag or locker and for the pupil to agree.

A pupil refusing to co-operate with such a request raises the same concerns as where a pupil refuses to stop any other unacceptable behaviour when instructed by a member of staff. If a member of staff suspects a pupil has a banned item in his/her possession, they can instruct the pupil to turn out his or her pockets or bag and if the pupil refuses, the teacher will refer to the behaviour policy for appropriate consequences.

Searching without Consent

The headteacher or a member of staff authorised by the headteacher can conduct a search without the pupil's consent, where they have reasonable grounds for suspecting that the pupil may have a prohibited item.

Prohibited items are:

- knives or weapons
- alcohol
- illegal drugs
- stolen items
- tobacco and cigarette papers
- 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 pupil).

Headteachers and authorised staff can also search for any item banned by the school rules which has been identified in the rules as an item which may be searched for. Examples of these at Kingswood Primary School are:

- Mobile phones of any kind
- Electronic devices such as smart watches or personal music devices
- Gaming equipment such as Nintendo DS, or the games themselves
- Jewellery or personal adornments that do not fit with the uniform code e.g. bracelets, chains, earrings that are not studs.
- Football or any kind of trading cards

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- Toys (where not used in any lesson or learning)
- Sweets, including chocolate
- Gum of any kind
- All prohibited items as listed above
- Legal requirements of a search

There should normally be 2 members of staff present during the search - the person doing the search and the search witness. Searches should normally be done by someone of the gender that the child identifies with.

The search witness must also be of the gender the child identifies with if possible.

If a child's bag or locker is being searched, the 2 members of staff should be present as well as the pupil in question.

If there's a risk of serious harm to a person if the search is not conducted immediately, a child may be searched by a person of the gender the child doesn't identify with and without another member of staff present.

The child must not be asked to remove clothes, other than outer clothing like a coat.

When searching a pupil, the member of staff must first ask the child to give them the item. If this is refused then the member of staff can conduct a search without consent for banned items provided the above rules are followed and according to the explicit list of items that are banned. Pupils who refuse to comply with an instruction to give the item will be given a sanction for failure to follow a reasonable instruction.

Establishing Grounds for a Search

Members of staff can only undertake a search without consent if they have reasonable grounds for suspecting that a pupil may have in his or her possession a prohibited item. The member of staff must decide in each particular case what constitutes reasonable grounds for suspicion. For example, they may have heard other pupils talking about the item or they might notice a pupil behaving in a way that causes them to be suspicious.

In the exceptional circumstances when it is necessary to conduct a search of a pupil of the opposite gender to the one the child identifies with or in the absence of a witness, the member of staff conducting the search should bear in mind that a pupil's expectation of privacy increases as they get older.

School staff are allowed to conduct a search following the above rules regardless of whether the pupil is found after the search to have that item. This includes circumstances where staff suspect a pupil of having items such as illegal drugs or stolen property which are later found not to be illegal or stolen.

Members of staff can view CCTV footage in order to make a decision as to whether to conduct a search for an item.

Members of staff can search for any item that has been listed as being banned in the behaviour policy. This includes mobile phones or other electronic devices and sweets, chewing gum, bubble gum. The search must take place on school premises.

Extent of the search – clothes, possessions (any goods over which the pupil has or appears to have control), desks, trays.

Members of staff will not:

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- Require the pupil 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
- Use force to conduct a search except where we suspect possession of knives, weapons, alcohol, illegal drugs, stolen items, tobacco and cigarette papers, fireworks, pornographic images, or articles that could be used to commit an offence or cause harm.

Informing parents/Record Keeping

- Schools are not required to inform parents before a search takes place or to seek their consent to search their child. However, if a search is conducted and an item has been confiscated that the parent is required to collect, a phone call and/or letter will be made to the parent informing them of what has happened. We will inform the individual pupil's parents or guardians where alcohol, illegal drugs or potentially harmful substances are found immediately.

Complaints

Any complaints will be dealt with through the normal complaints procedure.

Section 2: Confiscation

School 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 school discipline.

When is confiscation lawful?

When the member of staff has the authority to do it – this means that it must be justifiable on the basis that it is necessary in a democratic society by being:

- In pursuance of a legitimate aim, and
- Proportionate

The legitimate aim pursued in confiscating property is maintaining an environment that is conducive to learning, and safeguarding the rights of the other pupils to be educated.

What is proportionate?

This depends on the value of the property. Something that is valuable should be confiscated and stored securely. Kingswood Primary School will return valuable items to the parent directly only.

Item	**What will happen**
Mobile phone	Stored securely and given back to the parents/carers only.
Sweets or chocolate of any kind	Disposed of
Any other food items being eaten at inappropriate times of the school day	Disposed of
Electronic devices, smart watches, gaming equipment and games themselves (other items of value)	Stored securely and given back to the parents/carers only.
Trading cards, toys	Stored securely and given back to the child at the end of the day to take home.
Inappropriate items of jewellery not covered in our uniform policy	Stored and given back to the child at the end of the day (repeated incidences will be dealt with under the behaviour policy).

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Non uniform item of clothing	Given back to child at the end of the day (repeated incidences will be dealt with under the behaviour policy).

What is a reasonable sanction?

We view confiscation as a reasonable sanction where we are removing items that are:

- on the banned list of items within our behaviour policy.
- a threat to others
- something that could harm the pupil, other pupils or members of staff
- threatening good order for learning e.g. a pupil texting in class
- against school uniform rules e.g. baseball caps
- a threat to health and safety e.g. pupil wearing inappropriate earrings in school
- on the above list that we can search for without consent.

Jewellery and clothing

- We will not confiscate items that are of any religious, medical or cultural significance.
- We will not confiscate clothing items where the child is left partially dressed.

Trainers

The uniform policy is clear on the type of footwear that is acceptable. Children who repeatedly ignore this rule and come to school in inappropriate footwear will be asked to remove their footwear and will be given school plimsolls to wear for the day. The shoes will be returned to the child at the end of the school day.

Dealing with electronic devices

Where an electronic device is in question, the member of staff may examine any data or files on the device if they think there is a good reason to do so. In determining a good reason to examine or erase the data or files, the staff member must reasonably suspect that the data or file on the device in question has been, or could be, used to cause harm, to disrupt teaching or break the school rules. The pupil's consent will be sought and the pupil and another member of staff will be present when the data or files on the device are examined. If inappropriate material is found on a device, this will be referred to a member of the Senior Leadership Team. Parents will be informed and the Senior Leadership Team will work in partnership with the parents/carers to establish whether the material should be deleted, retained as evidence or whether the material is of such seriousness that it requires the involvement of the police.

Confiscating items that you can search without consent for:

This refers to alcohol, controlled drugs, other substances that may be harmful to good order and discipline, fireworks, stolen items, tobacco, cigarette papers, pornographic images, a weapon of any kind.

Item	**What will happen** ***In all instances parents/carers will be informed.***
Alcohol	Confiscate and discard the liquid – show the bottle to parents.
Fireworks	Confiscate and discard safely.
Controlled drugs or any substance suspected to be a controlled drug	Confiscate and report to the police.
Other substances	Confiscate and discard safely.

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Stolen items	Confiscate and, where appropriate, keep for any police investigation. If no police involvement return to the original owner.
Tobacco and cigarette papers	Confiscate and discard safely.
Pornographic images	Pornographic images – confiscate the paper images or the electronic device upon which the images are stored. Inform parents. Report to the police if necessary. If not necessary then delete the images, shred the images.
Weapon of any kind	(as defined in section 45 of the Violent Crime Reduction Act 2006) The police will be called to search where possible and any items found will be retained by them. This includes any evidence of an offence.

Complaints

Any complaints will be dealt with through the normal complaints procedure.

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