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OptionsAutism

Searching, Screening and Confiscation Policy and Protocol

Westbourne School

Searching, Screening and Confiscation Policy

Aims

The Department of Education guidance is intended to explain the school powers of searching and screening pupils so that school staff have the confidence to use them. In particular, it explains the use of the power to search students without consent. It also explains the powers the school has to seize and then confiscate items found during a search. It includes statutory guidance which the school must have regard to:

- Department for Education: Searching, Screening and Confiscation: Advice for Headteachers, School Staff and Governing Bodies. Crown Copyright, Jan 2018
- The Education Act 1996
- Education and Inspections Act 2006
- The Education (Independent School Standards) Regulations 2014
- The Schools (Specification and Disposal of Articles) Regulations 2012
- Health and Safety at Work Act 1974

Searching

The Headteacher, and staff authorised by them, have a statutory power to search pupils or their possessions, without 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
- smoking materials, including e-cigarettes
- stolen items
- fireworks
- pornographic images
- any article that the member of staff reasonably suspects has been, or is likely to be, used to commit an offence, or to cause personal injury to, or damage to the property of, any person (including the pupil)

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.

Screening

The Headteacher and authorised staff require pupils to undergo screening when entering school each morning, with the use of a hand held metal detector. Schools' statutory power to make rules on pupil behaviour and their duty as an employer to manage the safety of staff, pupils and visitors, enables them to impose a requirement that pupils undergo screening.

What the law allows

- Schools can require pupils to undergo screening by a walk-through 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 pupils.
- Schools' statutory power to make rules on pupil behaviour and their duty as an employer to manage the safety of staff, pupils and visitors enables them to impose a requirement that pupils undergo screening.
- Any member of the school staff can screen pupils.

Also note

- If a pupil refuses to be screened, the school may refuse to have the pupil on the premises. Health and safety legislation requires a school to be managed in a way which does not expose pupils or staff to risks to their health and safety and this would include making reasonable rules as a condition of admittance.
- If a pupil fails to comply, and the school does not let the pupil in, the school has not excluded the pupil and the pupil's absence should be treated as unauthorised. The pupil should comply with the rules and attend.
- This type of screening, without physical contact, is not subject to the same conditions as apply to the powers to search without consent.

Searching with Consent

Schools' common law powers to search:

- School staff can search pupils with their consent for any item. Staff 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 if the teacher can look in the pupil's bag or locker and for the pupil to agree.
- School staff can view CCTV footage in order to make a decision as to whether to conduct a search for an item.
- If a member of staff suspects a pupil has a banned item in his/her possession, they will instruct the pupil to turn out his pockets or bag and, if the pupil refuses, the staff support the student to understand that this is a process that is required using visual support and reassurance.
- A pupil may be anxious about the process and so staff should work with the pupil in a way that is tailored to each students understanding and level of need.
- The search should be carried out by two members of staff to act as a witness.

Searching without consent

School staff have the power to search without consent for:

- Knives or weapons, alcohol, illegal drugs and stolen items; and
- Fireworks and pornographic images; and
- 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; and

School Policy

- Any item banned by the school which has been identified in the rules as an item which may be searched for. The staff member conducting the search will be the same sex as the pupil being searched. There will be a witness (also a staff member) and, if at all possible, they will be the same sex as the pupil being searched. Staff members 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 staff member 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 sex 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.

During the Search

The person conducting the search may not require the pupil to remove any clothing other than outer clothing. 'Outer clothing' is defined as clothing that is not worn next to the skin or immediately over a garment that is being worn as underwear. 'Outer clothing' includes hats; shoes; boots; gloves and scarves. 'Possessions' means any goods over which the pupil has or appears to have control. 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. 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, fireworks, pornographic images or articles that have been or could be used to commit an offence or cause harm.

After the Search

The member of staff can use their discretion to confiscate, retain and/or destroy any item found as a result of a 'with consent' search so long as it is reasonable in the circumstances. Where any article is thought to be a weapon it must be passed to the police.

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.

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 a staff member conducting a search finds alcohol, they may retain or dispose of it. This means that schools can dispose of alcohol as they think appropriate but this should not include returning it to the pupil.

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.

Where they find other substances which are not believed to be controlled drugs these can be confiscated where a teacher believes them to be harmful or detrimental to good order and discipline. This would include, for example, so-called 'legal highs'.

The process following finding controlled drugs or other substances is:

- Place the substance in a sealed envelope
- Print and sign your name
- Add the date
- Do all of the above in the presence of a witness (also a staff member) who needs to also print and sign their name and add the date.

Where they find stolen items, these must be delivered to the police as soon as reasonably practicable – but 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 thinks that there is a good reason to do so.

Fireworks found as a result of a search may be retained or disposed of but should not be returned to the pupil.

If a member of staff finds a pornographic image, 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 delivered to the police as soon as reasonably practicable. With regards to any pornographic images found on a mobile phone or other electronic device, use the guidance in the safeguarding policy and [sexting in schools and colleges: responding to incidents and safeguarding young people](#), to make decisions regarding what to do with the confiscated imagery.

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 should be reported to the police. Please use the [Nottinghamshire knives and weapons guidance for schools and education providers](#) to make any decisions relating to confiscated articles.

Consequences

The Management of Behaviour policy has been established to meet the core values upon which Westbourne is based. Where students exhibit behaviours that may put the learning and safety of other learners at risk, Westbourne School will therefore use rewards, consequences and behaviour programmes as appropriate to the unique individual needs of each student. This reflects the whole ethos of the school in treating children and young people as individuals.

Due to the complex needs of some of our learners (especially those with ASD), and their understanding of circumstances, situations and rules and regulations, the discovery of prohibited items will not result in consequences, unless it is felt appropriate to do so.

Children with autism find timeframes difficult and so using a consequence after the event may not be at all meaningful for the child. Westbourne will however ensure that the learner will be supported to understand what has happened, what the risks are and why it is not acceptable to have these items on their person. We will employ the use of visual strategies such as Social Stories, videos and books.

We are part of the Outcomes First Group Family, by working together we will build incredible futures by empowering vulnerable children, young people and adults in the UK to be happy and make their way in the world.

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