Whittington Green School

Dream Reach Achieve

Guidance on searching, screening and confiscation

January 2022

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Guidance on Searching, Screening and Confiscation

Please read the following outline guidance carefully.

Full DfE guidance is available online:

https://www.gov.uk/government/publications/searching-screening-and-confiscation

School Staff can search a student for **any** item– **IF THE STUDENT CONSENTS**

What for

- Any item
- Prohibited items banned by the school (including cigarettes, aerosols, lighters/matches, e-cigarettes, energy drinks, legal highs)

Who

- Staff authorised by the Headteacher (SLT, Wider SLT and the Pastoral Team)
- Must have two members of staff present

When

- When there are reasonable grounds for suspicion

Where

- "Article 8 of the European Convention on Human Rights allows students to expect a reasonable level of personal privacy" and as such all searches will be carried out in an office or similar space.
- The right under Article 8 is not absolute but must be able to be justified as proportionate by the school.

Search WITH CONSENT

School staff can search students **WITH their consent** for any item using the following guidance:

1. Ask a student if they agree to be searched.
2. Students should be asked to turn out their pockets, empty their bags, show their sock tops, waistband and remove their tie.
3. Staff can look into a student's bag or locker if the student agrees.

4. You may, with the majority of students, ask if you may touch/check their bag to speed up the process however, discretion as to which students is essential.

Search WITHOUT CONSENT

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

If a student refuses to be searched, or tries to obstruct staff from conducting a search, they should remain under direct supervision and the Headteacher or Deputy Headteacher should be informed so that an appropriate sanction can be given. Parents/carers should be contacted to attend the school and collect the student and/or support the search.

Only the Headteacher and authorised staff have the statutory power to search students or their possessions **WITHOUT** consent. This is only in the case of certain prohibited items such as;

i) Knives and weapons

ii) Alcohol

iii) illegal drugs

iv) stolen items,

v) tobacco

vi) cigarette papers ii

vii) fireworks

viii) pornographic images

ix) Any article reasonably suspected to be used to commit an offence or cause personal injury or damage to property or person.

Such searches should not be carried out without direct permission from the Headteacher or Deputy Headteacher in their absence in order to ensure we follow the recommended guidance.

Use of reasonable force

- Staff can use reasonable force to conduct a search for the above listed items.
- Staff cannot use reasonable force to conduct a search for items banned only by the school rules.

After the search

What the law allows:

Schools' general power to discipline, as circumscribed by Section 91 of the Education and Inspections Act 2006, enables a member of staff to confiscate, retain or dispose of a student's property as a disciplinary penalty, where reasonable to do so.

Also note:

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 reasonably suspected to be an offensive 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.

Items found as a result of a 'without consent' search

What the law says:

- A person 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 person 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 student.
- Where they find **controlled drugs**, these must be delivered to the police as soon as possible.
- 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'. Where staff suspect a substance may be controlled they should treat them as controlled drugs as outlined above.
- 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.

- Where a member of staff finds **tobacco, e-cigarettes, matches, lighters or cigarette papers** they must or dispose of them or hand them over to the police. As with alcohol, this means that schools can dispose of these items as they think appropriate but this should not include returning them to the student ot parent/carers.
- 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 child pornography) in which case it must be delivered to the police as soon as reasonably practicable.

- Where a member of staff finds **an item which is banned under the school rules** they should take into account all relevant circumstances and use their professional judgement to decide whether to return it to its owner, retain it or dispose of it.
- Any **weapons or items which are evidence of an offence** must be passed to the police as soon as possible.

Telling parents and dealing with complaints

Schools are not required to inform parents before a search takes place or to seek their consent to search their child.

There is no legal requirement to make or keep a record of a search.

Whittington Green will inform the individual student's parents or guardians where alcohol, illegal drugs or potentially harmful substances are found, though there is no legal requirement to do so.

Complaints about screening or searching should be dealt with through the normal school complaints procedure.

Confiscated Items

DfE advice states "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".
The Whittington Green Governors' decision is that;
Cigarettes, E-cigarettes, tobacco, lighters/matches, smoking related materials and alcohol should be destroyed and disposed of. Where possible this should be done in view of the student but not disposed of in an area where the items may be retrieved at another time.

Any questions then please seek advice.