High Rocks Federation

ASPIRATION INCLUSION COLLABORATION

BROADWATER DOWN PRIMARY SCHOOL

LANGTON GREEN PRIMARY SCHOOL

Searching, Screening and Confiscation Policy

This is a shared policy, applied to all schools within the Federation and superseding any previous separate policies.

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Table of Contents

1. Background....3
2. Policy Objectives....3
3. Legislation Guidance....3
4. Roles and Responsibilities....3
5. Searching....4
   - 5.1 Before searching....4
   - 5.2 During a search....5
   - 5.3 The extent of the search....6
   - 5.4 Strip searching....6
   - 5.5 The process the police must follow during a strip search....7
   - 5.6 After-care following a strip search....7
   - 5.7 After a search....8
   - 5.8 Recording searches....8
   - 5.9 Informing parents....9
6. Confiscation....9
   - 6.1 Items found as a result of a search....9
   - 6.2 Prohibited or illegal items....9
   - 6.3 Electronic devices....11
   - 6.4 Confiscation as a disciplinary penalty....12
7. Screening....12
8. Further information....12

   Other relevant departmental advice and statutory guidance....12

   Other advice....12

1. Background

This policy is based on the Department for Education advice for headteachers, school staff and governing bodies 'Searching, Screening and Confiscation' DfE July 2022.

2. Policy Objectives

This policy sets out the framework in which the school will meet this obligation by outlining the circumstances in which pupils can be screened and searched. The policy also outlines the legal powers to seize and confiscate items during a search.

3. Legislation Guidance

- Coroners and Justice Act 2009
- Criminal Justice and Immigration Act 2008
- Health and Safety at Work etc. 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

4. Roles and Responsibilities

The executive headteacher will be responsible for:

- authorising members of staff to search pupils.
- ensuring the procedures in this policy are implemented consistently across the school
- 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 (or deputy).
- 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.
- reviewing this policy on an annual basis.

The DSL will be responsible for:

- managing any safeguarding concerns that are raised by staff members who have conducted a search and by pupils subject to a search.
- making a referral to children's social care services immediately (as set out in part 1 of Keeping children safe in education), if they find evidence that any child is at risk of harm.
- consider the circumstances of the pupil who has been searched to assess the incident against potential wider safeguarding concerns.

Staff members will be responsible for:

- acting in line with this policy when screening or searching a pupil or confiscating items

5. 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.

The Executive Headteacher, 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 below or any other item that behaviour for learning policy states as an item which may be searched for.

The list of prohibited items is:

- 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 pupil).
- an article specified in regulations:
- tobacco and cigarette papers;
- fireworks; and
- pornographic images.

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

When exercising our powers, we will 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 making reasonable adjustments that may be required where a pupil has a disability.

5.1 Before searching

A search will be considered if the member of staff has reasonable grounds for suspecting that the pupil is in possession of a prohibited item (Section 5) or any item identified in the behaviour for learning policy for which a search can be made, or if the pupil has agreed.

The authorised member of staff will assess 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 will consider why this is. Reasons might include that they:

- are in possession of a prohibited item (Section 5);
- 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 for learning policy.

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 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 Executive Headteacher will 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 (Section 5). The decision to use reasonable force will be made on a case-by-case basis. The Executive Headteacher will consider whether conducting the search will prevent the pupil harming themselves or others, damaging property or from causing disorder. The use of reasonable force will differ depending on whether the member of staff is searching possessions or the pupil themselves.

5.2 During a search

Where

An appropriate location for the search will be found. Where possible, this will be away from other pupils. The search will 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.

Who

The law states the member of staff conducting the search must be of the same sex as the pupil being searched. There must 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;

- 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.

When a member of staff conducts a search without a witness they will immediately report this to another member of staff, and ensure a record of the search is kept.

5.3 The extent of the search

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

The person conducting the search must 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.

A member of staff is able to search lockers and desks or other personal spaces at the school for any item provided the pupil agrees. If the pupil withdraws their agreement to search, a search may be conducted both for the prohibited items (Section 5).

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.

The member of staff may use a metal detector to assist with the search.

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

5.4 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 Police and Criminal Evidence Act 1984 (PACE) Code A and in accordance with the Police and Criminal Evidence Act 1984 (PACE) Code C. While the decision to undertake the strip search itself and its conduct are police matters, we as school staff retain a duty of care to the pupil(s) involved and will always advocate for pupil wellbeing.

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 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. Records will be kept of strip searches that have been conducted on school premises and these will be monitored for any trends that emerge.

5.5 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 must 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 should 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.

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 will 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. 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 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.

5.6 After-care following a strip search

Pupils should be given appropriate support, irrespective of whether the suspected item is found. If an item is found, this may be a police matter, but will always be accompanied by a safeguarding process handled by the school which gives attention to the pupil's wellbeing and involves relevant staff, such as the designated safeguarding lead (or deputy). 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.

5.7 After a search

Whether or not any items have been found as a result of any search, school staff 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, school staff will follow the child protection policy and speak to the designated safeguarding lead (or deputy) as set out in Part 1 of Keeping children safe in education. They will consider if pastoral support, an early help intervention or a referral to children's social care is appropriate. If any prohibited items are found during the search, the member of staff should follow the guidance set out below on confiscation.

If a pupil is found to be in possession of a prohibited item (Section 5), then the staff member will alert the designated safeguarding lead (or deputy) and the pupil will be sanctioned in line with the school's behaviour for learning policy to ensure consistency of approach.

5.8 Recording searches

Any search by a member of staff for a prohibited item (Section 5) and all searches conducted by police officers will be recorded on CPOMs in line with safeguarding record, including whether or not an item is found.

The designated safeguarding lead (or deputy) will use the records to identify possible risks that may require a safeguarding response.

The record of a search will include:

- 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.

If a high number of searches have occurred, the executive headteacher will 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 will consider whether any actions should be taken to prevent this.

5.9 Informing parents

Parents will always be informed of any search for a prohibited item (Section 5) 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.

Any complaints about searching, screening or confiscation will be dealt with through the normal school complaints procedure.

6. Confiscation

6.1 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 rules for which a search can be made);
- is evidence in relation to an offence

6.2 Prohibited or illegal items

Controlled drugs will be delivered to the police as soon as possible unless there is a good reason not to do so. 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 must have regard to the following guidance in the paragraph 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.

Other substances which are not believed to be controlled will 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 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 practicable. Members of staff should never intentionally view any indecent image of a child (also sometimes known as nude or semi-nude images). Staff will never copy, print, share, store or save such images.

Where a member of staff finds stolen items, these must 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 must have regard to the following guidance issued by the Secretary of State in the paragraph 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;
- 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 should 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 must have regard to the guidance issued by the Secretary of State in the paragraphs 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 of 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.

Members of staff should use their judgement to decide to return, retain or dispose of any other items banned under the school rules. 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 in the paragraph 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 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;
- whether the item is likely to continue to disrupt learning or the calm, safe and supportive environment of the school.

6.3 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 should 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 the paragraph below, if there is good reason to do so.

If the member of staff conducting the search suspects that they may find an indecent image of a child (sometimes known as nude or semi-nude images), the member of staff should never intentionally view the image, and must 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 designated safeguarding lead (or deputy) as the most appropriate person to advise on the school's response. Handling such reports or concerns can be especially complicated and schools should 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.

If a member of staff finds any image, data or file that they suspect might constitute a specified offence, then they must 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 must have regard to the following guidance issued by the Secretary of State in the paragraphs below.

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

6.4 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.

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. Screening

Schools' statutory power to make rules on pupil behaviour and their duties as employers in relation to the safety of staff, pupils and visitors enables them to impose a requirement that pupils undergo screening. Screening is the use of a walk-through or hand-held metal detector (arch or wand) to scan all pupils for weapons before they enter the school premises. We do not have such devices.

8. Further information

Other relevant departmental advice and statutory guidance

- Behaviour in Schools guidance
- Schools and College security guidance
- Equality Act 2010 and schools guidance
- Keeping children safe in education guidance
- Use of reasonable force in schools guidance
- Working together to safeguard children guidance
- DfE and ACPO drug advice for schools

Other advice

- Sharing nudes and semi-nudes: advice for education settings working with children and young people
- Police and Criminal Evidence Act 1984 (PACE) codes of practice