

This Policy has been adopted and approved by Gippswyk Community Educational Trust and has been adapted for use by Copleston High School.

<b>SEARCHING, SCREENING AND CONFISCATION POLICY</b>	
Approved by GCET/Adapted by Copleston High School	1.9.2017
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Responsible Officer	Paul Walker
Policy Number	CH5

## **Searching, Screening and Confiscation**

### **1.1 This policy relates to:**

- Education Act (most recent edition)
- Education and Inspections Act (most recent edition)
- The Schools (Specification and Disposal of Articles) (most recent edition)
- The School Behaviour (Determination and Publicising of Measures in Academies) Regulations (most recent edition)
- Health and Safety at Work etc. Act 1974 (most recent edition)

### **1.2 Objectives of this policy:**

This policy is based upon the guidance in the DfE document ‘Searching, Screening and Confiscation’ (most recent edition). It sets out the school’s power of screening and searching pupils so that school staff have the confidence to use them. In particular, it explains:

- The use of power to search pupils without consent
- The powers school have to seize and then confiscate items found during a search

This policy should be cross referenced with our:

- Safeguarding policy

- Behaviour policy
- Use of restraint policy

### 1.3 Searching

- School staff can search a pupil for any item if the pupil agrees.
- The Principal and staff authorised by him\* 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
  - 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:
    - i. to commit an offence
    - ii. to cause personal injury to, or damage to the property of, any person (including the pupil)
- The Principal 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. The banned list of items can be found in the school's Behaviour Policy.

**\*The Principal at Copleston High School has given the Senior Leadership team authorisation to search pupils. Any search should have two senior staff present, whom ideally are the same gender of the pupil being searched. The search, unless it is impractical or impossible to do so, should be conducted out of the view of other students.**

There is, however, a limited exception to this rule. Staff can carry out a search of a pupil of the opposite sex to them and without a witness present, but only where they reasonably believe that 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.

### 1.4 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.

## **1.5 Searching with Consent**

### **Schools' common law powers to search:**

- Authorised school staff can search pupils with their consent for any item.

Also note:

1. We are not required to have formal written consent from the pupil for this sort of search – it is enough for a member of staff 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.
2. 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 can apply an appropriate punishment as set out in the school's behaviour policy.
3. A pupil refusing to co-operate with such a search raises the same kind of issues as where a pupil refuses to stay in a detention or refuses to stop any other unacceptable behaviour when instructed by a member of staff – in such circumstances, we will apply an appropriate disciplinary penalty.

## **1.6 Searching without Consent**

Authorised staff can search a pupil if the school has reasonable grounds for suspecting that a pupil is in possession of a prohibited item. See Section 1.3 for more details of what these items are.

### **1.7 During the search**

#### **Extent of the search – clothes, possessions, desks and lockers**

##### **What the law says:**

- The person conducting the search may not 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 but outer clothing includes hats; shoes; boots; gloves and scarves.
- 'Possessions' means any goods over which the pupil has or appears to have control – this includes desks, lockers and bags.
- 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.

Also note:

The power to search without consent enables a personal search, involving removal of outer clothing and searching of pockets; but not an intimate search going further than that, which only a person with more extensive powers (e.g. a police officer) can do.

### **Lockers and desks**

1. Under common law powers, schools are able to search lockers and desks for any item provided the pupil agrees. Schools can also make it a condition of having a locker or desk that the pupil consents to have these searched for any item whether or not the pupil is present.
2. If a pupil does not consent to a search (or withdraws consent having signed a consent form) then it is possible to conduct a search without consent but only for the “prohibited items” listed above.

### **1.8 Use of force**

1. 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, tobacco and cigarette papers, fireworks, pornographic images or articles that have been or could be used to commit an offence or cause harm. Such force cannot be used to search for other items banned under the school rules.
2. Separate advice is available on teachers’ power to use force.

### **1.9 After the search**

#### **The power to seize and confiscate items – general**

##### **What the law allows:**

Schools’ general power to discipline, as set out in the Education and Inspections Act (most recent edition) enables a member of staff to confiscate, retain or dispose of a pupil’s property as a disciplinary penalty, where reasonable to do so.

1. The member of staff may 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.
2. 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 in accordance with this policy.

## **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 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, now illegal, ‘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 or cigarette papers they may retain or dispose of them. As with alcohol, this means that schools can dispose of tobacco or cigarette papers as they think appropriate but this should not include returning them to the pupil.
- 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. Images found on a mobile phone or other electronic device can be deleted unless it is necessary to pass them to the police.
- 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 may be delivered to the police or returned to the owner. It may also be retained or disposed of.
- 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.

### **2.0 Statutory guidance on the disposal of controlled drugs and stolen items**

1. It is up to teachers to decide whether there is a good reason not to deliver stolen items or controlled drugs to the police. In determining what is a “good reason” for not delivering controlled drugs or stolen items to the police the member of staff must have regard to the following guidance issued by the Secretary of State:

**In determining what is a ‘good reason’ for not delivering controlled drugs or stolen items to the police, the member of staff should take into account all relevant circumstances and use their professional judgement to determine whether they can safely dispose of a seized article.**

2. Where 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.
3. With regard to stolen items, it would not be reasonable or desirable to involve the police in dealing with low value items such as pencil cases. However, school staff may judge it appropriate to contact the police if the items are valuable (iPods/laptops) or illegal (alcohol/fireworks).

## **2.1 Statutory guidance for dealing with electronic devices**

1. Where the person conducting the search finds an electronic device they may examine any data or files on the device if they think there is a good reason to do so. Following an examination, if the person has decided to return the device to the owner, or to retain or dispose of it, they may erase any data or files, if they think there is a good reason to do so.
2. The member of staff must have regard to the following guidance issued by the Secretary of State when determining what is a “good reason” for examining or erasing the contents of an electronic device:

**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.**

3. If inappropriate material is found on the device it is up to the teacher to decide whether they should delete that material, retain it as evidence (of a criminal offence or a breach of school discipline) or whether the material is of such seriousness that it requires the involvement of the police.

## **2.2 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.

### **What the law says:**

1. There is no legal requirement to make or keep a record of a search.
2. Schools should inform the individual pupil’s parents or guardians where alcohol, illegal drugs or potentially harmful substances are found, though there is no legal requirement to do so.
3. Complaints about screening or searching should be dealt with through the normal school complaints procedure.