



King's High School

Policy:	<i>Searching and Confiscation</i>
Applies to:	<i>King's High School Staff and Pupils</i>
Authors:	<i>Deputy Head (Pastoral)</i>
Approved by:	<i>KHS Committee, June 2016</i>
Reviewed:	<i>1 July 2019; 1 July 2020</i>
Signed:	<i>S Burley, Deputy Head</i>

Searching and Confiscation Policy

Background

This policy has been reviewed in light of the publication of the DfE guidance– ‘Screening, searching and confiscation: advice for head teachers, staff and governing bodies’ (February 2014). The advice relates to the Education and Inspections Act 2006, The Schools (Specification and Disposal of Articles) Regulations 2012 and the Violent Crime Reduction Act 2006.

Under no circumstance should pupils bring into school any prohibited items. The Head 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
- 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,
- to cause personal injury to, or damage to the property of, any person (including the pupil)
- head teachers 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

Screening Pupils

The School can require pupils to undergo screening in order to manage the health and safety of pupils, staff and visitors to the school. Screening (by a walk through or hand held metal detector - arch or wand) can be carried out without the consent of pupil and even if staff do not suspect them of having a weapon.

If a pupil refuses to be screened, the school may refuse to have the pupil on the premises.

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 must 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.

Before any screening is carried out the Head would inform all parents that the school conducts screening as part of the Behaviour Policy. Parents will also be informed that co-operation with this by parents and pupils is required by the school. It is, therefore, a school rule.

Any screening authorised by the Head will only be occasional. There will be random selection of pupils - such as a class or year group. Pupils will not normally be screened as they enter the school.

The Head is empowered to call in external security experts to carry out the searching, but a senior member of staff must be present throughout.

If a suspicious object is detected the member of staff in attendance will ask the pupil to hand the item over. If the pupil refuses, the pupil will be taken to the Head, who will determine whether the pupil will be searched with or without his/her consent, or what alternative action will be taken.

Searching Pupils - to discover whether pupils have prohibited items in their possession

Searching with consent

The Head is empowered to authorise any member of staff to search pupils with their consent for any item.

School is not required to have formal written consent from the pupil for this sort of search – it is enough for the member of staff to ask the pupil to turn out his or her pockets or look in the pupil's bag or locker.

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. 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, schools can apply an appropriate disciplinary penalty.

Searching without consent

The law says that the following items can be searched for without consent if the teacher has reasonable grounds for suspecting that a pupil may have in their possession a prohibited item e.g. they have heard other pupils talk about it or a pupil may be behaving in a suspicious manner:

- 1) Knives or weapons, alcohol, illegal drugs and stolen items
- 2) Tobacco and cigarette papers, fireworks and pornographic images
- 3) 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
- 4) Any item banned by the school rules which has been identified in the rules as an item which may be searched for.

The Head will only involve members of the Senior Management Team from within the school staff. No member of the staff can be directed to screen or search pupils, but members of staff can be directed to be present when screening or searching is carried out by others. The Head may call in security experts to carry out the searches.

Before exercising this power, the Head and Deputy Heads must have undertaken appropriate training in search techniques, conflict management and calming strategies, organised by the Head.

The person carrying out the search must be the same sex as the pupil and the search must be carried out in the presence of another Senior Member of staff (e.g. Head of Key Stage or a Deputy Head) also the same sex as the pupil. The search must be conducted in a private place.

The pupil must not be required to remove any clothing other than outer clothing and if the pupil's possessions are searched this must also be done in the presence of another adult. The person carrying out the search is

able to use such force as is reasonable in the circumstances for exercising that power 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.

Searches without consent can only be carried out on the school premises or where the member of staff has lawful control or charge of the pupil e.g. on a school trip.

Schools are able to search lockers and desks for any item provided the pupil agrees. If a pupil does not consent to a search then it is possible to conduct a search without consent but only for the “prohibited items” listed.

Results of searches

Schools’ general power to discipline, as set out in the Education and Inspections Act 2006, enables a member of staff to confiscate, retain or dispose of a pupil’s property as a disciplinary penalty, where reasonable to do so.

If a search reveals any prohibited item then the member of staff must inform the Headteacher/Deputy Head.

The Head will report the finding of any weapons to the police.

The Head will determine the action to be taken where there is evidence relating to anything found.

If tobacco or alcohol items are found in pupils’ possession they must be confiscated by the member of staff and taken to the Head/DH where the confiscation and treatment of the items will be recorded. It is the school’s policy to destroy tobacco and alcohol items.

If evidence of drugs is found, the Head will determine what action to take under the school’s Drug Policy. Where controlled drugs are found, 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 other substances are found 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 stolen items are found, 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 pornographic image(s) are found, 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.

Where any item which is banned under the school rules the Head teacher/Deputy Head will 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. 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.

Statutory guidance on the disposal of controlled drugs and stolen items

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.

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.

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).

Statutory guidance for dealing with electronic devices

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. The search of this item should have been passed on to the Deputy Head. 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.

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.

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.

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.

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.

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

Recording searches

A record of all searches will be kept by the Head although there is no legal requirement to. Appendix A provides a form which must be filled out by the principal member of staff conducting the search.

Confiscated property

If the property is stolen, illegal or dangerous the school may return it to the rightful owner, or to a parent or hand it to the police - as appropriate above or it must be returned to the pupil. This will be at the discretion of the Head.

It is good practice to return confiscated property at the end of the school day – either to the pupil, or to the parents(s) – or at least as soon as it is reasonably practicable to do so.

If the property is not collected after reasonable notice and time elapsed but only after giving the owner written (if known) notice, and a further month's grace in which to collect the item(s). (s41 Local Government (Miscellaneous Provisions) Act 1982 and the EIA 2006) state that the School will be able to sell the item.

Safekeeping

Teachers are obliged to take reasonable care of confiscated property, in which case no liability will attach to the school for any loss or damage. If it is damaged through a teacher's negligence, the teacher could be held personally liable. Therefore, any confiscated property should be sent to School Office or to the Deputy Heads where it can be locked away, and a record taken of the owner, who confiscated it and when and how long the confiscation is to last.

At times, staff may need to confiscate temporarily pupils' property where it was necessary for disciplinary reasons. e.g. mobile phones.

In confiscating mobile phones, the phone must be switched off. Under no circumstances can the phone be searched by any member of staff. Please see Acceptable Use of ICT Policy (AUP)

Responsibilities

The Head is responsible for determining whether screening pupils will be organised.

The Head will ensure that this policy on screening, searching and confiscation of possessions is brought to the notice of parents.

The Head is also responsible for informing governors, staff, and pupils and of the policy, and how the policy will be put into action.

No members of staff may be directed by the Head to screen and search pupils.

Authors:	<i>Deputy Head (Pastoral)</i>
Annual Review:	<i>I certify that I have reviewed this policy, and verify that, to the best of my knowledge, it reflects current legislation and is in accordance with the wishes of the Governing Body and Head. Reviewed July 2020 Next review: July 2021</i>

APPENDIX A

Search of Pupil Reporting Form

Section A: Background Data

Date of incident:

Time of incident:

Pupil Name(s):

D.o.B:

Member(s) of staff involved:

Section B: Why did the Pupil need to be searched?

Please outline factors which influenced your suspicion that the pupil was in possession of either an illegal weapon or items contrary to the School rules.

Please detail the strategies which were employed prior to searching the pupil:

Outcome of search including details of contact with the police:

Section D: Follow-up action

Date parent/guardian informed of incident:

Time:

Informed by whom , and means:

Outline of parent/carer response:

Follow up, including post incident support and any disciplinary action against pupils:

Any information about incident shared with staff not involved in it and external agencies:

Signature of member of staff completing report:

Date:

Signature of Head:

Date:

Brief description of any subsequent inquiry/complaint or action: