

John Colet Search and Confiscation Policy

Date policy was agreed	October 2011
Date Equalities impact assessment completed	October 2011
Date policy was reviewed	January 2015
Date reviewed by Governor Advisor	October 2011
Date reviewed by Parents	September 2011
Date reviewed by the Governors	January 2015
Governors body responsible for the review	Curriculum Committee
Senior Leadership Team Member accountable for writing and reviewing the policy	Headteacher

Consultants: Mrs C Roche (School Governor), Mrs. C. McLintock (Headteacher), 45 parents reviewed the policy (2011)

Monitoring and Reviewing

This policy will be formally reviewed every 3 years.

Ongoing monitoring of actions and impacts/outcomes will be:

- Feedback within school to Headteacher

Legislation this policy relates to

Schools (Specification and Disposal of Articles) Regulations 2012

School Behaviour (Determination and Publicising of Measures in Academies) Regulations 2012

Education and Inspections Act 2006

Health and Safety at Work Act et al 1974

Policing and Crime Act 2009 Section 30

Education Act 1996

Data Protection Act 1998

Sexual Offences Act 2003

European Convention on Human Rights Article 8

DfE Advice: Screening, searching and confiscation 2014

Linked policies

Attitudes to learning policy

Mobile phone/electronic devices policy

Drugs policy

Safeguarding policy

Aim

To keep all members of the school community safe

School's common law powers on search

- School staff can search students with their consent for any suspected item banned by the school rules
- School staff can search students without their consent for any suspected knives, weapons, alcohol, illegal drug, stolen items, tobacco and cigarette papers, fireworks, pornographic images, any item which could reasonably be suspected of being used to

commit an offence, personal injury or damage to property (from now on called prohibited items) or banned item (as identified in school rules). A search without consent can only take place in England.

- A student refusing to co-operate with a search will raise the same kind of issues as where a student refuses to stay in a detention or refuses to stop any other unacceptable behaviour when instructed by a member of staff – schools can apply an appropriate disciplinary penalty.

When and where can a search take place?

A search can take place if there are reasonable grounds for suspecting that a student is in possession of a prohibited or banned item. The search may be of the student's clothing, footwear, bags or locker. The student must be present during the search unless there is the risk that serious harm may be caused to a person if the search is not conducted immediately. One member of staff may search without another member of staff present only where it is not reasonably practicable to summon another member of staff and there is risk of serious harm to a person.

Wherever possible, a search should take place in private. This may not be possible for example if searching a locker in a corridor which is a public place.

Who is authorised to search students?

On the school premises and grounds, the Headteacher, members of the Senior Leadership Team, Heads of Year, SENCO and staff employed in the Inclusion Unit have ongoing authorisation to search students in school. On an out of school activity, the Group Leader is authorised to search students at that location, if in England. All staff have ongoing authorisation to be the witness of a search. On an out of school activity, temporary authorisation is given to non-employees who are named adults supervising students on school trips to be a witness to a search. This temporary authorisation is only valid during the hours of the trip and can only be used when a staff employee is not able to deal with the situation.

If deemed necessary, the Headteacher will provide appropriate training for staff.

When a search is required, there must be two members of staff present. The first member of staff conducting the search must be the same sex as the student being searched. The witness (second person) who, where possible, must be a member of staff and should be, again wherever possible, the same sex as the student being searched.

On a school trip in England, the Group Leader where possible should lead the search but if this is not possible due to gender, they have the authority to delegate the search to a member of staff of the same gender.

Extent of the search

There is no legal requirement to make or keep a record of the search. However, the member of staff leading the search would be required by the school to keep an informal record in their diary of the date, student name, witness name, consent given, item being searched for and outcome.

A search of a student's possessions must take place in the student's presence with the witness present.

The staff conducting the search may conduct a "personal search" which requires the student to remove any 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 jackets, coats, sweatshirt, hats, shoes, boots, gloves and scarves).

Staff are not authorised to conduct an “intimate search” which requires the removal of non-outer clothing. The Police must always be called if an intimate search is needed as they have the legal powers required.

A student’s possessions (any goods over which the student has or appears to have control such as bags and lockers) may be searched.

Force should not be used when conducting a search. If there are any concerns that the student to be searched may become aggressive then the search should not take place and the Police called.

Protective gloves are available from Matron or from the First Aid Kit if on a school trip.

The searcher should avoid touching the student’s clothing or property to reduce the risk of injury from sharp objects. The student should turn out pockets, empty bags etc. Staff should only touch items which are visible and the risk of sharp items being present can be assessed by the searcher.

After the search

Staff must seize any prohibited or banned item found during a search.

Any item seized which is prohibited (with the exception of alcohol) must be delivered to the Police by the Headteacher as soon as is possible. Items which are evidence of an offence must be passed to the police as soon as possible. Any seized substance whose legal status is unsure should be treated as a controlled drug. Any substance believed to be a ‘legal high’ will be confiscated.

It would not be reasonable or desirable to involve the Police in dealing with low value stolen items such as pencil cases which will be returned to the owner. The Police will be involved in higher value stolen items.

Matron should be informed of any “sharps” items seized to arrange safe storage/disposal.

Alcohol which has been seized should be disposed of by pouring it down the sink .An alcohol tester kit is available from the Inclusion Unit Manager. If alcohol has been found on a student more than once within the last 12 months then the School Police Liaison Officer will be informed as Section 30 of the Policing and Crime Act 2009 created an offence for a person under the age of 18 of 'persistently possessing alcohol in a public place'.

Tobacco or cigarette papers will be seized and a parent/carer will be required to come in to collect them. They will not be returned directly to the student.

Fireworks will be disposed of.

Under British law it is an offence to possess, take, make, send, show, distribute or receive indecent images of anyone under 18. This includes images relating to one’s self. Police advice will be sought. Images found on mobile phones or other electronic device will be deleted with the student present unless it is necessary to pass them to the police.

Any seized banned item should be handed into the school office immediately where it will be recorded in a log book and then locked away in a safe under the control of the Headteacher. A parent/carer will be required to come into school to collect the item.

In accordance with 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. Following an examination, a decision can be taken 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 or decide whether the material is of such seriousness that it requires the involvement of the police.

Student punishment will be according to the level of incident and may involve detention, internal isolation, fixed or in extreme cases permanent exclusion. Any student who refuses to cooperate with a search will be considered to have refused a reasonable staff instruction and will be punished accordingly.

Parent/carer involvement

There is no legal requirement to inform the parent/carer.

The school will inform a parent/carer where a seized item is prohibited unless this would compromise the student's safety.

When a banned item has been confiscated, a parent/carer will then have to come into school to collect any item not delivered to the police or disposed of by staff.

A parent will be informed following a search if nothing is found but there are still concerns.

Complaints and Allegations

Any complaint or allegation of misconduct arising from an incident should be put in writing to the Headteacher using the school's complaints procedure.

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 and followed school procedures.