

# **Policy on searching and confiscation of banned items**

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**Withington Girls' School**

**September 2016**

## **1 Scope**

- 1.1 This policy has been authorised by the Governors and is available to parents and pupils on request. The policy relates to the power of authorised staff to search pupils and the retention and disposal of items that have been confiscated in accordance with the School Rules, the School's behaviour policy and the anti-bullying policy. This policy applies whenever pupils are in the care of the school, including on school trips or in training settings.
- 1.2 All schools have a general power to impose reasonable and proportionate disciplinary measures (Education and Inspections Act 2006). This enables a member of staff to confiscate, retain or dispose of a pupil's property as a disciplinary penalty where it is reasonable to do so. This policy also has regard to guidance published by the Department for Education (DfE), *Searching, screening and confiscation* (February 2014).
- 1.3 This policy can be made available in large print or other accessible format if required.

## **2 Aims**

- 2.1 The central aim of this policy is to enable the School to carry out its duties to safeguard and promote the welfare of children by ensuring that dangerous, illegal or disruptive items are removed from pupils and disposed of safely and lawfully.
- 2.2 This policy also aims to ensure that the pupils and parents understand the circumstances in which searches will take place, what will happen to items confiscated by staff and to discourage pupils from bringing such items into school or on school trips.

## **3 Prohibited items**

- 3.1 The following are "prohibited items" under Section 550ZA(3) of the Education Act 1996 and Regulation 3 of the Schools (Specification and Disposal of Articles) Regulations 2012:
  - 3.1.1 knives or weapons, alcohol, illegal drugs and stolen items
  - 3.1.2 tobacco and cigarette papers, fireworks and pornographic images
  - 3.1.3 any article that a member of staff reasonably suspects has been, or is likely to be used:
    - (a) to commit an offence or
    - (b) to cause personal injury to, or damage to the property of, any person (including the pupil) and
  - 3.1.4 any item banned by the School rules that are identified as being items which may be searched for.
- 3.2 The School has banned items that are reasonably believed to be likely to cause harm or disruption. Pupils must not have these items in their possession on School premises or at any time when they are in the lawful charge and control of the School (for example on an educational visit).

## **4 Searching with consent**

- 4.1 Before any search is undertaken the pupil will usually be asked to consent. In seeking consent, the age and maturity of the pupil will be taken into account together with any special needs the pupil may have. Written consent will not usually be required.

- 4.2 The consent of the pupil must be obtained for searches for items that are not "prohibited items" as listed in section 3 above. The consent of the pupil must be sought even if the pupil is not at School at the time. If a member of staff suspects that a pupil has an item that is banned by the School they can instruct the pupil to turn out his or her pockets or bag. If the pupil refuses, disciplinary action may be taken in accordance with the School's Behaviour and Discipline Policy.

## **5 Searching for prohibited items**

- 5.1 Where the Headmistress or an authorised member of staff have reasonable grounds to suspect that a pupil may have a prohibited item, consent is not required and the search will be carried out, using reasonable force where appropriate and permitted by law. Such force may not be used in searches for items included in 3.1.4.
- 5.2 The Headmistress has authorised the following staff to carry out searches and retain or dispose of items in accordance with this policy:
- 5.2.1 Any member of the teaching staff.
- 5.3 Searches will be carried out only on school premises or, if elsewhere, where the member of staff has lawful control or charge of the pupil, for example on a school trip or in training settings.
- 5.4 When pupils travel outside England on a school trip, they will be required as a condition of participating in the trip to confirm their consent in writing to any search that may be considered necessary by an authorised member of staff during the period in which pupils are outside England.
- 5.5 If it is believed that a pupil has a prohibited item, it may be appropriate for a member of staff to carry out:
- 5.5.1 a search of outer clothing and / or
- 5.5.2 a search of school property (e.g. pupils' lockers or desks) and / or
- 5.5.3 a search of personal property (e.g. bag or pencil case).
- 5.6 Searches will be conducted in such a manner as to minimise embarrassment or distress. Any search of a pupil or their possessions will be carried out in the presence of the pupil and another member of staff. Where a pupil is searched, the searcher and the second member of staff present will be the same gender as the pupil.
- 5.7 Where it is reasonably believed that serious harm may be caused if the search is not carried out immediately and it is not practicable to summon another member of staff, a member of staff may carry out a search of a pupil of the opposite sex and / or in the absence of a witness.
- 4.4 Where the Headmistress, or staff authorised by the Headmistress, find anything which they have reasonable grounds for suspecting is a prohibited item, they may seize, retain and dispose of that item in accordance with this policy.

## **6 Confiscation**

- 6.1 Under the School's general power to discipline, a member of staff may confiscate, retain or dispose of a pupil's property as a disciplinary penalty where it is reasonable to do so.
- 6.2 Confiscation of an item may take place following a lawful search, as set out above, or however the item is found if the member of staff considers it to be harmful or detrimental to school discipline.

## 7 Searching electronic devices

- 7.1 An electronic device such as a mobile phone or a tablet computer may be confiscated in appropriate circumstances in accordance with this policy. If there is good reason to suspect that the device has been, or could be used to cause harm, to disrupt teaching or break school rules, any data or files on the device may be searched and, where appropriate, data or files may be erased before the device is returned to its owner. Any data or files will only be erased, if there is good reason to suspect that the data or files have been, or could be used to cause harm, to disrupt teaching or break school rules.
- 7.2 If inappropriate material is found on an electronic device, the member of staff may delete the material, retain it as evidence of a breach of school discipline or criminal offence or hand it over to the police if the material is of such seriousness that police involvement is required .

## 8 Disposal of confiscated items

- 8.1 **Alcohol:** alcohol which has been confiscated will be destroyed.
- 8.2 **Controlled drugs:** controlled drugs will usually be delivered to the police as soon as possible. In exceptional circumstances and at the discretion of the Headmistress or authorised member of staff, the drugs may be destroyed without the involvement of the police if there is good reason to do so. All relevant circumstances will be taken into account and staff will use professional judgement to determine whether the items can be safely disposed of. They will not be returned to the pupil.
- 8.3 **Other substances:** substances which are not believed to be illegal drugs but which are harmful or detrimental to good order and discipline (for example "legal highs") may be confiscated and destroyed. Where it is not clear whether or not the substance seized is an illegal drug, it will be treated as though it is illegal and disposed of as above.
- 8.4 **Stolen items:** stolen items will usually be delivered to the police as soon as possible. However, if, in the opinion of the Headmistress or authorised member of staff, there is good reason to do so, stolen items may be returned to the owner without the involvement of the police. This is likely to apply to items of low value, such as pencil cases.
- 8.5 **Tobacco or cigarette papers:** tobacco or cigarette papers will be destroyed.
- 8.6 **Fireworks:** fireworks will not be returned to the pupil. They will be disposed of safely at the discretion of the Headmistress or other authorised member of staff which may include donation to an appropriate charity.
- 8.7 **Pornographic images:** pornographic images involving children or images that constitute "extreme pornography" under section 63 of the Criminal Justice and Immigration Act 2008 will be handed to the police as soon as practicable. As possession of such images may indicate that the pupil has been abused, the school's Designated Person for Child Protection will also be notified and will decide whether to make a referral to the Manchester Safeguarding Children Board.
- 8.8 Other pornographic images will also be discussed with the School's Designated Person for Child Protection. The images may then be passed to the Manchester Safeguarding Children Board for consideration of any further action. If no action is to be taken by the local authority the images will be erased after a note has been made for disciplinary purposes, confirming the nature of the material.
- 8.9 **Article used to commit an offence or to cause personal injury or damage to property:** such articles may, at the discretion of the Headmistress or authorised member of staff taking all the circumstances into account, be delivered to the police, returned to the owner, retained or disposed of.

- 8.10 **Weapons or items which are evidence of an offence:** such items will be passed to the police as soon as possible.
- 8.11 **An item banned under school rules:** such items may, at the discretion of the Headmistress or authorised member of staff taking all the circumstances into account, be returned to its owner, retained or disposed of. Where staff confiscate a mobile phone that has been used in breach of school rules to disrupt teaching, the phone will be kept safely until the end of the school day when it can be claimed by its owner, subject to section 7 and paragraph 8.12 of this policy. If a pupil persists in using a mobile phone in breach of school rules, the phone will be confiscated and must be collected by a parent.
- 8.12 **Electronic devices:** if it is found that a mobile phone, laptop or tablet computer or any other electronic device has been used to used to cause harm, disrupt teaching or break school rules, including carrying out cyberbullying, the device will be confiscated and may be used as evidence in disciplinary proceedings. Once the proceedings have been concluded the device must be collected by a parent or carer and the pupil may be prohibited from bringing such a device onto school premises or on school trips. In serious cases, the device may be handed to the police for investigation.

## 9 Communication with parents

- 9.1 There is no legal requirement for the School to inform parents before a search for banned or prohibited items takes place or to seek their consent to search their child and it will not generally be practicable to do so. However, we will inform parents of any search that takes place and provide details of any items that have been found. In appropriate cases we will consult parents on how the School should dispose of certain items.
- 9.2 We will keep a record of searches carried out which can be inspected by the parents of the pupil(s) involved subject to any restrictions under the Data Protection Act 1998. The record will include details of the disposal of items confiscated.
- 9.3 Complaints about searching or confiscation will be dealt with through the School's Complaints Procedure. A copy of the procedure is posted on the School website and hard copies are available from the School office on request.
- 9.4 The School will take reasonable care of any items confiscated from pupils. However, unless negligent or guilty of some other wrongdoing causing injury, loss or damage, the School does not accept responsibility for loss or damage to property.

## 10 Monitoring

- 10.1 This policy will be reviewed:
- 10.1.1 following any serious incident involving pupils and banned or prohibited items
  - 10.1.2 following the issue of any new guidance from the Department for Education (DfE) and
  - 10.1.3 in any event, every three years.
- 10.2 The review will be carried out by the Deputy Head. A report will be made to the Governors who will authorise any necessary amendments.

<b>Authorised by</b>	resolution of the Board of Governors
<b>Date</b>	<b>September 2016</b>

<b>Date for review</b>	August 2017
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This policy is reviewed annually.

Last reviewed August 2016