



# Searching and Confiscation Policy

## Heathlands School



### **Policy Review**

This policy will be reviewed in full by the Governing Board.

The policy was agreed by the Pupil Welfare and Curriculum Committee on 2.3.21.

**Next Review due March 2023.**

Signature ..... Date .....  
Co-Head Teacher

Signature ..... Date .....  
Governor

## Statement of intent

Heathlands appreciates that pupils have the right to expect a reasonable level of personal privacy and will do its utmost to ensure that, as far as possible, this right is respected.

Nevertheless, the school also takes seriously its obligation under health and safety legislation to be managed in a way which does not expose pupils or staff members to unnecessary risks.

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.

## Legal framework

1.1. This policy has due regard to legislation and statutory guidance, including, but not limited to, the following:

- Health and Safety at Work etc. Act 1974
- Education Act 1996
- Education and Inspections Act 2006
- The Schools (Specification and Disposal of Articles) Regulations 2012
- The School Behaviour (Determination and Publicising of Measures in Academies) Regulations 2012
- European Convention on Human Rights
- DfE (2018) 'Searching, screening and confiscation'
- DfE (2013) 'Use of reasonable force'
- DfE (2016) 'Behaviour and discipline in schools'

1.2. This policy operates in conjunction with the following school policies:

- **Behaviour Policy**
- **Child Protection Policy**
- **Anti-bullying policy**
- **Reducing the need for RPI**
- **Complaints Procedures Policy**
- **Surveillance and CCTV Policy**

## 2. Searching with consent

2.1. Any member of staff has the authority to search pupils for any item with their consent.

2.2. Formal written consent is not required for this sort of search.

- 2.3. Items banned from the school premises are outlined in clause 5.7 of this policy.
- 2.4. If a member of staff suspects a pupil is in possession of a banned item, the pupil will be instructed to turn out their pockets or bag. If the pupil refuses to do this, the staff member will apply an appropriate punishment in line with the school's Behaviour Policy.

### **3. Authorising members of staff**

- 3.1. Only the Co headteachers and authorised members of staff have the authority search pupils without their consent.
- 3.2. The Co headteachers are responsible for deciding who the authorised staff are. Staff members authorised by the Co headteachers with these powers are:
  - **Jason Hazrati**
  - **Sara Head**
  - **Naomi Jarret**
- 3.3. Staff members, are permitted to refuse to undertake a search.
- 3.4. Some staff members are authorised to search for some items but not others, e.g. a member of staff could be authorised to search for stolen property, but not weapons.
- 3.5. When deciding which staff will be authorised to undertake searches under these powers, the co headteachers will consider whether the member of staff requires any additional training to enable them to carry out their responsibilities.

### **4. Searching without consent**

- 4.1. The Co headteachers and authorised staff have the statutory power to search pupils or their possessions, without consent, where they have reasonable grounds for suspecting that the pupil may be in possession of a prohibited item. The staff member will decide what constitutes as reasonable grounds for suspicion on a case-by-case basis.
- 4.2. Prohibited items are:
  - Knives or weapons.
  - Alcohol.
  - Illegal drugs.
  - Stolen items.
  - Tobacco and cigarette papers.
  - Fireworks.
  - Pornographic images.

- Any item that a 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 the property of, any person.
- 4.3. Pupils will only be searched by staff members who are the same sex as them and all searches will be witnessed by another member of staff who will be, where possible, the same sex as the pupil being searched.
  - 4.4. A search will only be conducted by a person who is not the same sex as the pupil being searched, or without a witness, where the staff member reasonably believes that there is a risk of serious harm if the search is not conducted immediately. Under these exceptional circumstances, the member of staff conducting the search will consider that a pupil's expectation of privacy increases as they get older.
  - 4.5. The school may consider the use of CCTV footage in order to decide whether to conduct a search of an item. Any CCTV usage will be conducted in line with the school's Surveillance and CCTV Policy.
  - 4.6. An item banned by the school rules will only be searched for without consent if it is identified in the school rules that it is an item that can be searched for.
  - 4.7. Banned items include:
    - Legal highs.
    - Aerosol cans.
    - Paint thinners.
    - Non-prescribed hypodermic needles.
  - 4.8. Searches without consent will only be carried out on the school premises or, if elsewhere, where the member of staff conducting the search has lawful control or charge of the pupil, e.g. on a school trip in England.

## 5. During the search

- 5.1. Definitions:
  - **Outer clothing** – clothing that is not worn next to the skin or immediately over a garment that is being worn as underwear, e.g. hats, shoes, blazer.
  - **Possessions** – any goods over which the pupil has or appears to have control, including desks, lockers and bags.
- 5.2. The person conducting a search will not ask the pupil being searched to remove any clothing other than outer clothing.
- 5.3. A pupil's possessions, their locker or desk will 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 if the search is not conducted immediately.

- 5.4. The power to search without consent enables a personal search, involving removal of outer clothing and the searching of pockets, but not an intimate search going further than that, which only a person with more extensive powers (i.e. a police officer) can do.
- 5.5. If a pupil does not consent to a search or withdraws consent having signed a consent form, then they may be subject to a search without consent but only for prohibited items.
- 5.6. Members of staff are permitted to use such force as is reasonable, given the circumstances, when conducting a search for prohibited items, but will not use force to search for items banned only under school rules.

## 6. After the search

- 6.1. Staff members are permitted to confiscate, retain or dispose of a pupil's property where it is reasonable to do so.
- 6.2. Staff members will use their discretion to confiscate, retain and/or destroy any item found due to a search with the pupil's consent, so long as it is reasonable in the circumstances. Where any item is reasonably suspected to be an offensive weapon, it will be passed to the police.
- 6.3. Staff members are legally protected from liability in any proceedings brought against them for any loss of, or damage to, any item they have confiscated, provided they acted lawfully.

### Items found as a result of a search conducted without consent

- 6.4. Staff members carrying out a search are permitted to seize any item they have reasonable grounds for suspecting is a prohibited item or is evidence in relation to an offence.
- 6.5. When a staff member conducting a search finds:
  - **Alcohol**, they will retain or dispose of the item as they see appropriate; the alcohol will not be returned to the pupil.
  - **Controlled drugs**, they will deliver them to the police as soon as possible; however, they may also be disposed of if the staff member thinks there is a good reason to do so.
  - **Other substances** which are not believed to be controlled drugs, they will confiscate them if they believe them to be detrimental to behaviour and discipline.
  - **Stolen items**, they will deliver these to the police as soon as possible or return them to the owner if they think there is a good reason to do so.
  - **Tobacco or cigarette papers**, they will retain or dispose of them; they will not be returned to the pupil.
  - **Fireworks**, they will be retained or disposed of, but not returned to the pupil.

- A **pornographic image**, they will dispose of the image unless there are reasonable grounds to suspect that its possession constitutes a specified offence (i.e. the image is extreme child pornography); in these cases, the staff member will deliver the image to the police as soon as possible.
  - An item that has been, or is likely to be, **used to commit an offence or to cause personal injury or damage to property**, they will deliver the item to the police, return the item to the owner, or retain or dispose of the item.
  - **Weapons or items which are evidence of an offence**, they will pass the item to the police as soon as possible.
- 6.6. It is up for authorised staff to decide whether there is a 'good reason' not to deliver stolen items or controlled drugs to the police. In determining what a good reason is, the member of staff will take into account all relevant circumstances and use their professional judgement to determine whether they can safely dispose of the item.
- 6.7. Where the member of staff is unsure of the legal status of a substance and has reason to believe it may be a controlled drug, the item will be treated as such.
- 6.8. In relation to stolen items, the police will not be involved in dealing with low-value items (e.g. pencil cases); however, it may be appropriate for the school to contact the police if high-value items (e.g. laptops) or illegal items (e.g. fireworks) are involved.

## 7. Electronic devices

- 7.1. If an electronic device that is prohibited by the school rules or that is reasonably suspected to have been, or is likely to be, used to commit an offence or cause personal injury or damage to property is found during a search, the staff member is permitted to examine any data or files on the device where there is good reason to do so.
- 7.2. Parental consent is not required in order to search a pupil's phone if it has been seized in a 'without consent' search.
- 7.3. Staff members have the authority to delete data or files if they think there is a good reason to do so, unless the device is suspected to be relevant to an offence, or is a pornographic image of a child or an extreme pornographic image; in these cases, the device will be given to the police and files and data will not be deleted from the device prior to doing this.
- 7.4. In determining what a good reason is, the member of staff will reasonably suspect that the data or file on the device has been, or could be, used to cause harm, to disrupt teaching or break the school rules.

- 7.5. Any electronic device that has been seized which is prohibited by the school rules, and there are reasonable grounds to suspect that it contains evidence relating to an offence, will be given to the police as soon as possible.
- 7.6. If a member of staff does not find any material they suspect is evidence in relation to an offence, and decides to not give the device to the police, they are permitted to decide whether it is appropriate to delete any files or data from the device or retain the device as evidence of a breach of school discipline.

## **8. Parental consent**

- 8.1. The school is not required to inform parents before a search takes place or to seek their consent to search their child.
- 8.2. The Co headteachers will inform the individual pupil's parents where alcohol, illegal drugs or potentially harmful substances are found.
- 8.3. Complaints about searching will be dealt with in line with the school's Complaints Procedures Policy.

## **9. Enforcement**

- 9.1. All staff members are expected to act in accordance with this policy.
- 9.2. Any breach of this policy will be dealt with in line with the school's Disciplinary Policy and Procedure.

## **10. Monitoring and review**

- 10.1. This policy will be reviewed on a two year cycle by the Co headteachers.
- 10.2. Any changes to this policy will be communicated to all members of staff, pupils and their parents.
- 10.3. The next scheduled review date for this policy is November 2022.