

Mission Statement

In Christ We Grow – As a learning community we live out our mission statement striving for excellence through caring, sharing and achieving.

The policy relates to the following legislation:

- Education Act 1996
- Education and Inspections Act 2006
- The Schools (Specification and Disposal of Articles) Regulations 2012
- Health and Safety at Work, etc. Act 1974

The Key Elements of this Policy

- School staff can search a pupil for any item if the pupil agrees. (The ability to give consent can be influenced by age and other factors)
- The Headteacher and staff authorised by her 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. Staff cannot blanket search a whole year group but can search individuals or identified groups of pupils. Prohibited items include:
 - Knives or weapons
 - Alcohol
 - Energy drinks
 - Illegal drugs
 - Stolen items
 - Tobacco, E-cigarettes, **cigarettes** and cigarette papers
 - Lighters and matches
 - Fireworks, **firecrackers or other incendiary/explosive items**
 - 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 to damage the property of, any person (including the pupil)

- Mobile phones or electronic devices when operated in the school day between 08:25 and 15:00 or 14:40 on Fridays
- Any item banned by school rules, including:
 - Excessive amounts of sweets, crisps and drinks suspected to be sold to other learners or which have been sold
 - Make-up
 - Items which may be used to damage the school building or property, or contravene good order and discipline in school e.g. marker pens, paint, stink bombs, laser pen, fire crackers, fireworks, water bombs, etc.

Confiscation

Staff can seize any prohibited item found as a result of a search. They can also seize any item, however found, which they consider detrimental to school discipline.

Pupils' Rights

Under article 8 of the European Convention on Human Rights pupils have a right to respect for their private life. This means at Our Lady Queen of Peace Catholic Engineering College pupils have the right to expect a reasonable level of personal privacy, unless the school deems a search to be justified and proportionate in accordance with the above information.

The powers to search in the Education Act 1996 are compatible with Article 8. A school exercising those powers lawfully will have no difficulty in demonstrating that it has also acted in accordance with Article 8.

Screening

The school reserves the right to screen any child, within the law, as outline below.

What the law allows:

- We can require pupils to undergo screening by a walk-through or hand-held metal detector (arch or wand) even if they do not suspect them of having a weapon and without the consent of the pupils
- Schools' statutory power to make rules on behaviour and their duty as an employer to manage the safety of staff, pupils and visitors enables us to impose a requirement that pupils undergo screening
- Any member of staff can screen pupils
- If a pupil refuses to be screened, the school may refuse to let the pupil on the premises
- If a pupil fails to comply, and we do not let the pupil in, and we have not excluded the pupil then the absence will be treated as unauthorised
- This type of screening, without physical contact, is not subject to the same conditions as apply to the powers to search without consent

Searching with Consent

Schools' common law powers to search:

- We can search pupils with their consent for any item

Also note:

- We are not required to have formal written consent from the pupil for this sort of search – it is enough for the teacher to ask the pupil to turn out his or her pockets or if the teacher can look in the pupil's bag
- This policy and the Behaviour Policy makes it clear what items are banned
- If a member of staff suspects a pupil to have a banned item in his/her possession, they can instruct the pupil to turn out their pockets or bag and if the pupil refuses, the appropriate sanction as identified in the Behaviour Policy will be applied
- A pupil refusing to co-operate with a search will be treated as per the school Behaviour Policy

Searching Without Consent

What can be searched for?

- Knives or weapons, alcohol, illegal drugs and stolen items; and
- Tobacco, **cigarettes** and cigarette papers, fireworks and pornographic images; and
- Any article that the member of staff reasonably suspects has been, or is likely to be used to commit an offense, or to cause personal injury to, or to damage property; and
- Any item banned by the school rules which is identified as an item to search for in this policy and in the Behaviour Policy

Expectations with Regards to Searching:

- Staff searching are authorised by the Headteacher or Deputy Headteacher in the case of the absence of the Headteacher. At Our Lady Queen of Peace Catholic Engineering College, the Senior Leadership Team, the Learning Managers and Teaching staff are allowed to conduct searches on pupils under the following circumstances:
 - Staff must be the same sex as the pupil being searched and there must be a witness (also a member of staff) and, where possible, the witness should be of the same sex as the pupil.
 - There is a limited exception to this rule. Identified staff may carry out a search of a pupil of the opposite sex when it is believed 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 practical** to summons another member of staff

When Can a Search be Undertaken

- When there is reasonable grounds for suspecting a pupil has possession of a prohibited item
- Teachers can only undertake a search without consent where there are reasonable grounds that a pupil or pupils are in possession of a banned item e.g. where CCTV footage identifies issues, where other pupils share concerns or are talking about issues, etc.
- In exceptional cases when it is necessary to conduct a search of a pupil of the opposite sex or in the absence of a witness, the member of staff should remember that a pupil's expectation of privacy increases as they get older.
- The Headteacher, Deputy Headteacher, SLT or Learning Managers can view CCTV footage in order to make a decision as to whether a search is needed.
- Powers allow staff to search regardless of whether the pupil is found to have the suspected items.

Searches for Banned Items by School Rules

- An item banned by school rules can only be searched for if it is identified in this policy and the Behaviour Policy

Location of a Search

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

During the Search

- 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 does include: gloves, hats, scarves and shoes
- Possessions means any goods over which the pupils have or appear to have control
- A pupils' possessions can only be searched in the presence of the pupil and other member of staff, except where there is a risk of serious harm as identified above

Use of Force

- Members of staff can use reasonable force when conducting a search for knives, weapons, alcohol, illegal drugs, stolen items, tobacco, **cigarettes** and cigarette papers, fireworks, pornographic materials or articles that have been or could be used to commit an offence. Banned items by the school do not warrant reasonable force. The school discourages any use of force except in extreme circumstances and a Restraining Form must be completed

After the Search

Disposal of confiscated items with a consent search:

- Section 91 of 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. This includes mobile phones and electronic items used against school policy.
- Weapons must be handed to the police
- Our Lady's staff are protected by law and thus have a defence against any allegation brought against them so long as they acted lawfully

Disposal of confiscated items as a result of a without consent search:

- A person carrying out a search can seize any item they have reasonable grounds for suspecting is a prohibited item or is evidence in relation to an offence
- Where the member of staff finds alcohol, they may retain or dispose of it but it must not be returned to the pupil
- Where a member of staff finds controlled drugs, these must be delivered to the police as soon as possible
- Where other substances which are not believed to be controlled drugs, these can be confiscated where a member of staff believes them to be harmful or detrimental to good order and discipline
- Stolen items must be delivered to the police but may be returned to the owner if there is good reason to do so
- Tobacco, **cigarettes** and cigarette papers should be disposed of and must not be returned to the pupil
- Fireworks/fire crackers must be retained and disposed of by the school
- With regards to pornographic images, it should be disposed of except where it constitutes an offence e.g. child pornography. In such cases it must be delivered to the police as soon as possible
- Articles used to cause injury to a person or property, or which could be used to commit an offence should be handed to the police or returned to the owner at a later date depending on the severity
- Smaller items or banned school items can be retained and disposed of or returned to the pupil at a later date as appropriate

Dealing with Electronic Devices

- The School reserves the right to confiscate mobile phones and electronic devices where children break school rules. These can be retained in school for **up to** 48 hours, after which a parent must make arrangement to collect the device. Items will be kept securely in the school safe.
- Where a member of staff suspects a child of using an electronic device for purposes which contravene good order or discipline, they may examine files and data on the

device. Following the examination, the item will be confiscated for up to 48 hours, after which a parent must make arrangements to collect the device. It may be appropriate for the member of staff to delete files if there is good reason to do so.

- The member of staff must follow the guidelines from the Secretary of State when deciding what is a 'good reason' for examining or erasing contents of an electronic device
 - **In determining a 'good reason' to examine or erase the data or files the member of staff 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 a member of SLT 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 involvement of the police.
- Electronic devices/mobile phones are to be handed in whilst a child is in Internal Exclusion, the Lesson Support Room or after school R & R.
- Electronic devices/mobile phones are to be handed in for the school day when a child is on Red Report.

Contact with Parents and Complaints

- It is not a requirement to inform parents before a search takes place or to seek their consent to search their child
- Following a search, a record should be kept on the pupil's file and all information passed to SLT
- Staff should inform parents of pupils where alcohol, illegal drugs or any potentially harmful substances are found, including tobacco.
- Any parental complaints regarding screening and searching will be dealt with through the normal school complaints procedure

Staff

- Staff at Our Lady Queen of Peace Catholic Engineering College have the right to refuse to conduct a search. In such cases, staff should refer the matter to their Line Manager, Learning Manager or a member of the Senior Leadership Team.

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