

## Searching and Confiscation Policy

*A copy of this policy is published in the following area:  
The school's website*

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### **A. Related Truro School Policies**

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This Searching and Confiscation Policy should be read in conjunction with:

- Positive Handling Policy;
- Behaviour Policy: Rewards and Sanctions;
- Safeguarding and Child Protection Policy.
- School Rules

### **B. Rationale and purpose of policy**

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The policy has been developed in line with guidance from the DfE document: "Searching, screening and confiscation" (January 2018).

The aim of this Policy is to state the circumstances under which:

- pupils or pupils' rooms, lockers or belongings may be searched;
- and the procedures to be followed when this occurs.

The Headmaster and teaching staff have a specific statutory power to search pupils without consent for specific items – knives/weapons, alcohol, illegal drugs and stolen items.

### **C. Prohibited items that may warrant a search**

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Prohibited items that may warrant a search include:

- knives or weapons;
- alcohol;
- illegal drugs;
- stolen items;
- tobacco and tobacco products, including e-cigarettes and vaping products;
- fireworks;
- lasers and laser pens;

- pornographic images (including those stored digitally);
- any article that the member of staff reasonably suspects has been, or is likely to be, used:
  1. to commit an offence, or
  2. to cause personal injury to, or damage to the property of, any person (including the pupil).
- Headteachers 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.

## **D. Searching in General**

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### **D1. Searching with consent**

School staff can search a pupil for any item if the pupil agrees.

No formal written consent is needed from the pupil. A teacher may ask the pupil to agree to:

- turning out their pockets;
- opening their bag, locker or, in the case of boarders, their room.

### **D2. Searching without consent**

Teaching staff may also search pupils or their possessions even without their consent, provided they have reasonable grounds for suspecting that the pupil may have a **prohibited item** (illegal item or an item banned by Truro School as set out in the School Rules).

To search a pupil, teachers must be the same sex as the pupil being searched; and there must be a teacher witness who must be the same sex as the pupil being searched. If possible that teacher witness would be a tutor or another member of staff trusted by the pupil.

There is a limited exception to this rule. You can carry out a search of a pupil of the opposite sex to you and / or without a witness present, but only where you reasonably believe that there is a risk that serious harm will be caused to a person if you do not conduct the search immediately and where it is not reasonably practicable to summon another member of staff.

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.

The power to search without consent enables a personal search, involving removal of outer clothing and searching of pockets; but not an intimate search going further than that, which only a person with more extensive powers (e.g. a police officer) can do.

Searches without consent can only be carried out on the school premises or, if elsewhere, where the member of staff has lawful control or charge of the pupil, for example on school trips or in training settings. The powers only apply in England.

### **D3 Establishing grounds for a search**

- Teachers can only undertake a search without consent if they have reasonable grounds for suspecting that a pupil may have in his or her possession a prohibited item. The teacher must decide in each particular case what constitutes reasonable grounds for suspicion. For example, they may have heard other pupils talking about the item or they might notice a pupil behaving in a way that causes them to suspect that the pupil is concealing a prohibited item.
- In the exceptional circumstances 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 conducting the search should bear in mind that a pupil's expectation of privacy increases, as they get older.
- The powers allow school staff to search regardless of whether the pupil is found after the search to have that item. This includes circumstances where staff suspect a pupil of having items such as illegal drugs or stolen property which are later found not to be illegal or stolen.
- School staff may wish to consider utilising CCTV footage in order to make a decision as to whether to conduct a search for an item.

#### **D4 Extent of the search – clothes, possessions, desks and lockers**

##### **What the law says:**

- 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' includes hats; shoes; boots; gloves and scarves.
- 'Possessions' means any goods over which the pupil has or appears to have control – this includes desks, lockers and bags.
- A pupil's possessions can 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 to a person if the search is not conducted immediately and where it is not reasonably practicable to summon another member of staff.

##### **Also note:**

- The power to search without consent enables a personal search, involving removal of outer clothing and searching of pockets; but not an intimate search going further than that, which only a person with more extensive powers (e.g. a police officer) can do.

##### **Lockers and desks**

- Under common law powers, schools are able to search lockers and desks for any item provided the pupil agrees. Schools can also make it a condition of having a locker or desk that the pupil consents to have these searched for any item whether or not the pupil is present.
- If a pupil does not consent to a search (or withdraws consent having signed a consent form) then it is possible to conduct a search without consent but only for the "prohibited items" listed above.

##### **Use of force**

- Members of staff can use such force as is reasonable given the circumstances 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. Such force cannot be used to search for items banned under the school rules.

## **E. Searching Boarders' Rooms and Lockers**

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- A pupil's permission is not necessary for a search of their room.
- Every effort should be made to have the pupil present when a search of their room takes place.
- There should always be two adults present including the Housemaster/mistress, if at all possible; one of the two adults carrying out the search should be of the same sex as the pupil.
- If a pupil is female, a female member of staff should carry out the physical search.
- In the absence of the Housemaster/mistress, or their Assistant, a member of the Senior Leadership Team (SLT) will lead the search.
- If a whole house search is taking place, pupils should not be fore-warned of this; they should be assembled in the Social Area and invited to accompany members of staff while their room is being searched; they should then return to the Social Area until the search has been completed.
- If any stolen or prohibited items are discovered, they should be handed to the Housemaster/mistress. The pupil should be questioned and asked to make a statement, ideally in the presence of another member of staff or senior pupil, this should be given to the Deputy Head (Pastoral).

A written record that the search has taken place should be completed by the Housemaster/mistress:

- a copy should be given to the Deputy Head (Pastoral) and a copy stored in the pupil's file.
- Parents / guardians should also be informed when any disciplinary necessary measures have been decided.
- A record of a room or house search and whether anything is found or not, should be written in the Daily Log.
- If, during a routine room inspection or during cleaning or maintenance, prohibited items are found, the Housemaster/mistress, should be informed and a note should be made of what has been seen and its whereabouts. The Housemaster/mistress, will then inform the Deputy Head (Pastoral) or Headmaster before any action is decided.

## **F. Confiscation**

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### **The power to seize and confiscate items – general**

#### **What the law allows:**

- Schools' general power to discipline, as circumscribed by 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, where reasonable to do so.

#### **Also note:**

- The member of staff can use their discretion to confiscate, retain and/or destroy any item found as a result of a 'with consent' search so long as it is reasonable in the circumstances. Where any article is reasonably suspected to be an offensive weapon, it must be passed to the police.

- 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.

### **Items found as a result of a 'without consent' search**

#### **What the law says:**

- A person carrying out a search can seize anything they have reasonable grounds for suspecting is a prohibited item or is evidence in relation to an offence.

- Where a person conducting a search finds alcohol, they may retain or dispose of it. This means that schools can dispose of **alcohol** as they think appropriate but this should not include returning it to the pupil. This should be passed to the Deputy Head ( Pastoral ) for disposal

- Where they find **controlled drugs**, these must be delivered to the he Deputy Head (Pastoral), who will then call the police as soon as possible but may be disposed of if the person thinks there is a good reason to do so. The Deputy Head (Pastoral) will follow the statutory guidance on the disposal of controlled drugs and stolen items.

- Where they find **other substances** 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 they find **stolen items**, 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 should pass them to the Deputy Head ( Pastoral), who will decide how to 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 a member of staff finds a **pornographic image**, they may dispose of the image unless they have reasonable grounds to suspect that 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.
- Where an article that has been (or is likely to 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. They should discuss their decision with a member of SLT.
- Any **weapons or items which are evidence of an offence** must be passed to the police as soon as possible.

### **Statutory guidance for dealing with electronic devices**

- Where the person conducting the search finds an electronic device that is prohibited by the school rules or that they reasonably suspects has been, or is likely to be, used to commit an offence or cause personal injury or damage to property, they should consult with a member of the SLT and they may examine any data or files on the device where there is a good reason to do so. They may also delete data or files if they think there is a good reason to do so, unless they are going to give the device to the police. This power applies to all schools and there is no need to have parental consent to search through a young person's mobile phone if it has been seized in a lawful 'without consent' search and is prohibited by the school rules or is reasonably suspected of being, or being likely to be, used to commit an offence or cause personal injury or damage to property.
- The member of staff must have regard to the following guidance issued by the Secretary of State when determining what is a "good reason" for examining or erasing the contents of an electronic device:
  - In determining a 'good reason' to examine or erase the data or files the staff member should 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 an electronic device that is prohibited by the school rules has been seized and the member of staff has reasonable grounds to suspect that it contains evidence in relation to an offence, they must give the device to the police as soon as it is reasonably practicable. Material on the device that is suspected to be evidence relevant to an offence, or that is a pornographic image of a child or an extreme pornographic image, should not be deleted prior to giving the device to the police.<sup>4</sup>

- If a staff member does not find any material that they suspect is evidence in relation to an offence, and decides not to give the device to the police, they can decide whether it is appropriate to delete any files or data from the device or to retain the device as evidence of a breach of school discipline.

- All school staff should be aware that behaviours linked to sexting put a child in danger. Governing bodies should ensure sexting and the school's approach to it is reflected in the child protection policy. The UK Council for Child Internet Safety (UKCCIS) Education Group has recently published the advice - sexting in schools and colleges - responding to incidents and safeguarding young people .

<sup>4</sup> Section 62 of the Coroners and Justice Act 2009 defines prohibited images of children. Section 63 of the Criminal Justice and Immigrations Act 2008 defines extreme pornographic images.

## **G. Records and Informing Parents**

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- We are not required to inform parents before a search takes place.
- A written record that the search has taken place must be completed by one of the teachers conducting the search, signed by the teacher and the teacher witness, and given to the Deputy Head (Pastoral).
- We will always inform the individual pupil's parents or guardians if we find alcohol, illegal drugs, potentially harmful substances or inappropriate digital material.

## **Appendix: Legislative Documents**

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- The Education Act 1996;
- Education and Inspections Act 2006;
- Education (Independent School Standards) (England) Regulations 2015.