



KING EDWARD VI
HIGH SCHOOL

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KING EDWARD VI HIGH SCHOOL

SEARCHING, SCREENING AND CONFISCATION POLICY

**Encouraging and supporting all our learners to
"Be the best that they can be"**

Headteacher

Mr J Christey

Governor

Mr C Soutar

Review Date

Every 3 years or as legislation changes





Context

Ensuring school staff and pupils feel safe and secure is vital to establishing calm and supportive environments conducive to learning. Using searching, screening and confiscation powers appropriately is an important way to ensure pupil and staff welfare is protected and helps our school to establish an environment where everyone is safe.

Schools and their staff are an important part of the wider safeguarding system for children. This system is described in the statutory guidance Working together to safeguard children. Keeping children safe in education makes clear that all school staff have a responsibility to provide a safe environment in which pupils can learn. (Taken from Department of Education (DoE) guidance July 2022).

The Department of Education (DoE) issued advice on schools' powers of screening and searching pupils (Searching, Screening and Confiscation, July 2022) so that school staff have the confidence to use them. In particular, the guidance explains the use of the power to search pupils without consent. It also explains the powers schools have to seize and then confiscate items found during a search. It includes statutory guidance which schools must have regard to.

The published advice is for School leaders and school staff in **all** schools in England.

For the purposes of this advice references to "maintained school" means a community, foundation or voluntary school, community or foundation special school. It also means Pupil Referral Units and non-maintained special schools.

Searching

King Edward VI School's senior staff can search a pupil for any item if the pupil agrees. The staff are aware that the ability to give consent may be influenced by the child's age or other factors. Searching can play a critical role in ensuring that schools are safe environments for all pupils and staff. It is a vital measure to safeguard and promote staff and pupil welfare, and



to maintain high standards of behaviour through which pupils can learn and thrive.

The Headteacher and senior staff authorised by them have a statutory power to search pupils or their possessions, with consent where they have reasonable grounds for suspecting that the pupil may have a prohibited item. The staff involved should explain to the pupil/s clearly why the search is taking place so that they understand the grounds for this decision.

King Edward VI High School identifies that the following are prohibited items (see Behaviour and Positive Relationships Policy);

- knives or weapons
- items that could be construed as a weapon
- alcohol
- illegal drugs
- stolen items
- tobacco and cigarette papers
- e-cigarettes
- fireworks
- laser pens
- Pornographic images
- any article that the 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 to the property of, any person (including the pupil).

This list is may not be exhaustive.

The Headteacher and authorised senior staff can also search for any item banned by the school rules which has been identified above and, in the Behaviour, and Positive Rewards Policy as an item which may be searched for.

Searches would be carried out with two members of staff present. One member of staff must be a Senior Leader, and the gender of the pupil will be taken in to account in terms of staff completing the search.



School staff may consider using CCTV footage to decide whether to conduct a search for an item.

The designated safeguarding lead (or deputy) should be informed of any searching incidents where the member of staff had reasonable grounds to suspect a pupil was in possession of a prohibited item/s. The staff member should also involve the designated safeguarding lead (or deputy) without delay if they believe that a search has revealed a safeguarding risk. The staff member should then record these actions on Cpoms.

Confiscation

King Edward VI High School senior staff can seize any prohibited item found as a result of a search. They can also seize any item, however found, which they consider harmful or detrimental to school discipline.

Schools' obligations under the European Convention on Human Rights (ECHR)

Under article 8 of the European Convention on Human Rights pupils have a right to respect for their private life. In the context of these particular powers, this means that pupils have the right to expect a reasonable level of personal privacy.

The right under Article 8 is not absolute, it can be interfered with but any interference with this right by a school (or any public body) must be justified and proportionate.

The powers to search in the Education Act 1996 are compatible with Article 8. A school exercising those powers lawfully should have no difficulty in demonstrating that it has also acted in accordance with Article 8. The Department of Education advice will assist schools in deciding how to exercise the searching powers in a lawful way.



Screening

What the law allows:

King Edward VI High School 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 pupil behaviour (see Section 89 of the Education and Inspections Act 2006 for all maintained schools, PRUs and NMSS and the Education (Independent School Standards) (England) Regulations 2010 for academy schools and alternative provision academies) and their duty as an employer to manage the safety of staff, pupils and visitors (Section 3 of the Health and Safety at Work etc. Act 1974) enables them to impose a requirement that pupils undergo screening.

Any member of the school's senior staff can screen pupils.

It is important to note:

1. If a pupil refuses to be screened, the school may refuse to have the pupil on the premises. Health and safety legislation require a school to be managed in a way which does not expose pupils or staff to risks to their health and safety and this would include making reasonable rules as a condition of admittance.
2. If a pupil fails to comply, and the school does not let the pupil in, the school has not excluded the pupil and the pupil's absence should be treated as unauthorised. The pupil should comply with the rules and attend.
3. This type of screening, without physical contact, is not subject to the same conditions as apply to the powers to search without consent.



Before a search

A search can be considered if the member of staff has reasonable grounds for suspecting that the pupil is in possession of a prohibited item or any item identified in the school rules for which a search can be made, or if the pupil has agreed.

The authorised member of staff should make an assessment of how urgent the need for a search is and should consider the risk to other pupils and staff.

Before any search takes place, the member of staff conducting the search should explain to the pupil why they are being searched, how and where the search is going to take place and give them the opportunity to ask any questions.

The authorised member of staff should always seek the co-operation of the pupil before conducting a search. If the pupil is not willing to co-operate with the search, the member of staff should consider why this is. Reasons might include that they:

- are in possession of a prohibited item;
- do not understand the instruction;
- are unaware of what a search may involve;
- have had a previous distressing experience of being searched.

If a pupil continues to refuse to co-operate, the member of staff may sanction the pupil in line with the school's behaviour policy, ensuring that they are responding to misbehaviour consistently and fairly.

If the member of staff still considers a search to be necessary, but is not required urgently, they should seek the advice of the Headteacher, designated safeguarding lead (or deputy) or pastoral member of staff who may have more information about the pupil. During this time the pupil should be supervised and kept away from other pupils.

If the pupil still refuses to co-operate, the member of staff should assess whether it is appropriate to use reasonable force to conduct the search. A member of staff can use such force as is reasonable to search for any



prohibited items outlined in 'Searches', but not to search for items which are identified only in the school rules.

The decision to use reasonable force should be made on a case-by-case basis. The member of staff should consider whether conducting the search will prevent the pupil harming themselves or others, damaging property or from causing disorder. It should be noted that the use of reasonable force will differ depending on whether the member of staff is searching possessions or the pupil themselves.

Searching with consent

Common law powers for schools to search means that school staff can search pupils with their consent for any item.

The school is not required to have formal written consent from the pupil for this sort of search – it is enough for the senior staff member to ask the pupil to turn out his or her pockets or if they can look in the pupil's bag or locker and for the pupil to agree.

King Edward VI High School's Behaviour and Positive Relationships Policy clearly states what items are banned. This is available on the school's website.

If a member of senior 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 staff member can apply an appropriate punishment as set out in the school's behaviour policy.

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



Searching without consent

What the law says:

The law states the school can searched for;

- Knives or weapons, alcohol, illegal drugs and stolen items
- Tobacco and cigarette papers, fireworks and pornographic images
- Any article that the 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 to property
- Any item banned by the school rules which has been identified in the rules as an item which may be searched for.

Who can conduct searches?

The law states that the Headteacher or a member of senior school staff as authorised by the Headteacher with a second authorised member of staff. No search should be conducted with one member of staff present.

Under what circumstances can a pupil be searched?

In order to carry a search staff must be the same sex as the pupil being searched; and there must also be a witness (also a staff member) and, if at all possible, they should be the same sex as the pupil being searched.

There is a limited exception to this rule. Staff can carry out a search of a pupil of the opposite sex to you and 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.

An authorised search can take place if the school have reasonable grounds for suspecting that a pupil is in possession of a prohibited item.



Prohibited items seized following a search

The law also says what must be done with prohibited items which are seized following a search. (see section on “After the Search” below)

The requirement that the searcher is the same sex as the pupil and that a witness is present will continue to apply in nearly all searches. Where it is practicable to summon a staff member of the same sex as the pupil and a witness then the teachers wishing to conduct a search must do so.

Authorising members of staff

It is the responsibility of the Headteacher to decide who to authorise to use these powers. There is no requirement to provide authorisation in writing.

Staff can refuse to undertake a search. The law states that the Headteacher may not require anyone other than a member of the School Leadership Team to undertake a search.

Staff can be authorised to search for some items but not others; for example, a member of staff could be authorised to search for stolen property, but not for weapons or knives.

The Headteacher can require a member of the school’s Leadership Team to undertake a search.

Training for school staff

When designating a member of staff to undertake searches under these powers, the Headteacher should consider whether the member of staff requires any additional training to enable them to carry out their responsibilities.

Establishing grounds for a search

Searches without consent can only be undertaken if there is reasonable grounds for suspecting that a pupil may have in his or her possession a prohibited item. Senior staff 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 be suspicious.

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 senior 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.

Authorised school staff can view CCTV footage in order to make a decision as to whether to conduct a search for an item. Access to CCTV footage is delegated by the Headteacher.

Searches for items banned by the school rules

An item banned by the school rules may only be searched for under these powers if it has been identified in the school rules as an item that can be searched for.

The school rules must be determined and publicised by the Headteacher in accordance with section 89 of the Education and Inspections Act 2006 in maintained schools. The details are available in the school's Behaviour and Positive Relationship Policy.

Under section 89 and the School Behaviour (Determination and Publicising of Measures in Academies) Regulations 2012 the Headteacher must publicise the school behaviour policy, in writing, to staff, parents and pupils at least once a year.

Location of a search

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 in England or in training settings.



These powers only apply in England.

During the search

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.

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, the school is 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".



Use of force

Senior 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.

Separate advice is available on teachers' power to use force. (see Use of Reasonable Force - advice for Headteachers, staff and Governing Bodies Behaviour and Discipline in Schools)

After the search

What the law allows:

The schools' general power to discipline, as set out in 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.

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 thought to be a 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.

Recording searches

Any search by a member of staff for a prohibited item listed in this policy (and any other item that could cause harm) and all searches conducted by police officers should be recorded in the school's safeguarding reporting system (Cpoms), including whether or not an item is found.



This will allow the designated safeguarding lead (or deputy) to identify possible risks and initiate a safeguarding response if required.

Ideally, the record of the search should include:

- the date, time and location of the search;
- the name of the pupil searched;
- who conducted the search and any other adults or pupils present;
- what was being searched for;
- the reason for searching;
- what items, if any, were found;
- what follow-up action was taken as a consequence of the search.

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 the school can dispose of alcohol as they think appropriate but this should not include returning it to the pupil.

Where they find **controlled drugs**, these must be delivered to the police as soon as possible but may be disposed of if the person thinks there is a good reason to do so.

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 may retain or dispose of them. As with alcohol, this means the school 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 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. Images found on a mobile phone or other electronic device can be deleted unless it is necessary to pass them to the police.

Where an **article that has been (or could 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.

Any **weapons or items which are evidence of an offence** must be passed to the police as soon as possible.

Statutory guidance on the disposal of controlled drugs and stolen items

It is up to the school to decide whether there is a good reason not to deliver stolen items or controlled drugs to the police. In determining what is a "good reason" for not delivering controlled drugs or stolen items to the police the member of staff must have regard to the following guidance issued by the Secretary of State:

"In determining what is a 'good reason' for not delivering controlled drugs or stolen items to the police, the member of staff should take into account



all relevant circumstances and use their professional judgement to determine whether they can safely dispose of a seized article."

Where staff are unsure as to the legal status of a substance and have reason to believe it may be a controlled drug they should treat it as such.

With regard to stolen items, it would not be reasonable or desirable to involve the police in dealing with low value items such as pencil cases. However, school staff may judge it appropriate to contact the police if the items are valuable (iPods/laptops) or illegal (alcohol/fireworks).

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, if the person has decided 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.

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 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 the Headteacher 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 the involvement of the police.

All school staff are aware that behaviours linked to sexting put a child in danger. King Edward VI High School's Child Protection Policy (available on the school website) clearly details sexting and the school's approach to it.

King Edward VI High School will also take account of any additional guidance and procedures on the retention and disposal of items that have been put in place.



Telling parents and dealing with complaints

King Edward VI School is not required to inform parents before a search takes place or to seek their consent to search their child and there is no legal requirement to make or keep a record of a search.

The school will inform the individual pupil's parents or guardians where alcohol, illegal drugs or potentially harmful substances are found, though there is no legal requirement to do so.

Complaints about screening or searching should be dealt with through the normal school complaints procedure which is available on the school's website.

