

# Searching & Confiscation Policy

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*Remember that I commanded you to be strong and brave. So don't be afraid. The Lord your God will be with you everywhere you go<sup>2</sup> (Joshua 1:9)*

As the harvest grows from the soil, Hayfield Cross came to life in 2015. From nothing, we have grown at the heart of our new community, persevering through challenge into a flourishing school. Guided by our Christian values the seeds of Joy, Integrity and Fellowship are planted as we instil this pioneering spirit in our children, challenging them through exciting learning to aspire to greatness in all that they do.

# Hayfield Cross Church of England School

## Searching & Confiscation Policy

*“If you fully obey the Lord your God and carefully follow all his commands I give you today, the Lord your God will set you high above all the nations on earth.”*

(Deuteronomy 28:1)

### Introduction

Hayfield Cross Church of England School fully recognises the responsibility it has under section 157 of the Education Act 2002 to have arrangements in place to safeguard and promote the welfare of children. This policy is a whole school policy and applies to all children. Care and consideration will be given to the age of the child when following the guidance in this policy.

This policy applies to all staff, volunteers and contractors, paid and unpaid, working in the school including governors. This policy has been written using advice taken from [Searching, Screening and Confiscation: Advice for Headteachers, school staff and governing bodies](#) (DfE, July 2022).

The school acknowledges its legal duty to make reasonable adjustments for disabled children and children with special educational needs (SEN). Equality Act 2010

### Search with consent

- School staff can search a child for any item if the child agrees. The school will take into account the age of the child when considering consent.
- It is enough for the teacher to ask the child to turn out their pockets or if the teacher can look in the child’s bag, locker or tray and for the child to agree. They do not need written consent from the child.
- The school makes clear in their school behaviour policy and in communications to parents and children what items are banned.
- If a member of staff suspects a child has a banned item in his/her possession, they can instruct the child to turn out his or her pockets or bag and if the child refuses, the teacher can apply an appropriate punishment as set out in the school’s behaviour policy.
- A child refusing to co-operate with such a search raises the same kind of issues as where a child refuses to stop any other unacceptable behaviour when instructed by a member of staff – in such circumstances, schools can apply an appropriate sanction.

### Search without consent

The Headteacher, and staff authorised by the Head, have a statutory power to search children or their possessions, without consent, where they have reasonable grounds for suspecting that the child may have a prohibited item.

Prohibited items are:

- knives or weapons
- alcohol
- illegal drugs
- stolen items
- tobacco and cigarette papers
- fireworks
- 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 child)

There must be an additional witness (also a staff member) present when a child is searched.

There is a limited exception to this rule. Staff can carry out a search of a child without a witness present, but only where the staff member reasonably believes that there is a risk that serious harm will be caused to a person if they do not conduct the search immediately and where it is not reasonably practicable to summon another member of staff.

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

Teachers can only undertake a search without consent if they have reasonable grounds for suspecting that a child 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 children talking about the item or they might notice a child behaving in a way that causes them to be suspicious.

In the exceptional circumstances when it is necessary to conduct a search of a child in the absence of a witness, the member of staff conducting the search should bear in mind that a child's expectation of privacy increases as they get older.

The powers allow school staff to search regardless of whether the child is found after the search to have that item. This includes circumstances where staff suspect a child of having items such as illegal drugs or stolen property which are later found not to be illegal or stolen.

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 child, for example on school trips in England.

### **Confiscation**

School 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.

When deciding what to do with the confiscated items, staff will follow the guidelines set out in *Searching, Screening and Confiscation: Advice for Headteachers, school staff and governing bodies* (DfE, July 2022).

### **Dealing with electronic devices (statutory guidance)**

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 to go against the expectation in the school's Behaviour Policy.

If inappropriate material is found on the device it is up to the teacher 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.

## Guidance for carrying out a search

What the law says:

- The person conducting the search may not require the child 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 child has or appears to have control – this includes desks, lockers and bags.
- A child’s possessions can only be searched in the presence of the child 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.

## Use of force

See Positive Handling Policy .

## Informing parents

There is no requirement for the school to inform parents before a search. Parents may be informed as part of the school behaviour policy and procedures. Parents will be informed if the matter is sufficiently serious or could be potentially harmful to the child or the school.

If a parent makes a complaint, the normal procedures for dealing with a complaint should be followed.

## Record keeping

There is no legal requirement for the school to keep records of searches or confiscation. However, as part of our normal procedures any such event will be recorded on either the child’s safeguarding log (on MyConcern) or another form of log.