

# Oak Bank School Policy

## Conducting Search and Confiscation



Prepared by Approved by	Review Period	GB / Committee	Date Approved	Date of Next Review
RF/PC	3 Years	Curriculum	October 2018	October 2021

# **Search and Confiscation Policy**

## **Introduction**

At Oak Bank, trust between students and staff is a core foundation underpinning the school's philosophy. Therefore, we would hope the need to conduct a search on whatever basis would be a rare one.

Sadly, there will be occasions when there is a need to search belongings or a person where there is a reason to believe that the student has prohibited items (please see below and the Student Behaviour Policy for a list) or items which infringe the school rules or, potentially, the law of the land.

This policy has been drawn up in accordance with the DfE's guidance Screening, Searching and Confiscation (January 2018).

What the law says:

The law allows:

- Schools 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<sup>2</sup> and their duty as an employer to manage the safety of staff, pupils and visitors<sup>3</sup> enables them to impose a requirement that pupils undergo screening.
- Any member of school staff can screen pupils.

### **Also note:**

- If a pupil refuses to be screened, the school may refuse to have the pupil on the premises. Health and safety legislation requires 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.
- 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.
- This type of screening, without physical contact, is not subject to the same conditions as apply to the powers to search without consent.

## **Conducting a search:**

**The key points in relation to conducting a search are below:**

- School staff can search a student for any item if the student agrees. This can include, for example, looking in the student's bag and locker and requesting that they turn out their pockets. There is no requirement for the student to give a formal written consent for this. It is enough that a request is made and acceded to.
- The Head of School and staff have a statutory power to search students or their possessions, without consent, where they have reasonable grounds for suspecting that the student may have a prohibited item.

These 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,
- To cause personal injury to, or damage to the property of, any person (including the student)

**The following items which are banned by the School;**

- Any substances intended to resemble drugs, legal drugs, performance enhancing drugs, anabolic steroids, glue or any other substance held for purposes of misuse.
- 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.

**Search of a student's person**

If there are reasonable grounds for suspecting that a student is in possession of a prohibited item (as per the list previous) the Head of School and all staff have the statutory power to search.

A search will only take place therefore when it is believed to be justified and proportionate.

A student will always be asked to provide information about a suspicion that may reduce the need for a search to be carried out.

The best approach is to ask him/her, in the presence of a second adult witness, to turn out his pockets or bag.

Where the search is being carried out without consent, the person carrying out the search must be the same sex as the student and if possible, the second adult witness should also be the same sex as the student. However, in urgent situations where there is a reasonable belief that there is a risk of serious harm if the search is not carried out immediately and it is not practicable to find the necessary staff available, this can be dispensed with.

Although the Education Act 2011 allows the use of reasonable force to remove outer clothing (clothing that is not worn next to the skin or immediately over underwear), where a student refuses to consent to the search, it is school policy that if the student refuses to co-operate, that the parents should be called.

**Staff should not touch the student forcibly.**

Suspected possession of illegal drugs or weapons is a more serious matter. The member of staff should instead make every effort in the presence of a second adult witness to persuade the student to hand the drugs or weapons over to staff voluntarily. If the student refuses, and it is not appropriate to carry out a search without consent he should be told that the police will be called. The police may then conduct a personal search.

Personal/Intimate searches cannot be conducted by members of school staff. If intimate searches are considered to be necessary, they should be conducted by an authorised police officer.

**Search of a student's personal property**

If there is a suspicion that a student has a prohibited item in his / her possession, the member of staff may instruct the student to turn out his / her bag or pockets. If a student objects, the student should be made aware that the school might proceed with a search.

**Searching Electronic Devices**

The school provides considerable education to students about the risks attached to the misuse of electronic devices with regard to the materials stored and their use. If a staff member reasonably suspects that data has been, or could be, used to cause harm, to disrupt teaching or break the school rules, they will confiscate the device. If electronic devices are seized under the rules of confiscation (see below), staff are asked to contact a member of the SLT before they take any further action as detailed below. If Staff believe that the data or files on a mobile phone, computer or other electronic device found as part of a search is linked to an incident of an inappropriate nature- this must not be looked at, the phone should be stored securely in the school safe and appropriate agencies contacted.

With security on phones, accessing the device is likely to be difficult, therefore if there are serious concerns raised, the school will seek advice from the Police.

## **Searches of school property**

There are few areas where students can leave possessions. Only Level 2 students have access to lockers. However, as a guiding principle the school should always seek consent from the student before initiating such a search. However, staff may search school property without consent, such as student's lockers, if there are reasonable grounds for suspecting that a prohibited item is stored there. Where consent is denied students should be made aware that a search might be undertaken in accordance with the procedures set out above.

**Set out below is a checklist of factors the school should bear in mind before initiating a search.**

- 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.
- Is the item under search high risk? Searches without consent can only be carried out on school premises, or where the student is in the care of the school, for example on school trips or in training settings. However, the powers apply only in England, therefore if school trips occur outside England, the school should require students to confirm in writing that they will consent to searching before the trip occurs.
- The extent and nature of the search should be proportionate to the value and 'risk factor' of the item sought. For example a search may well be undertaken where possession, supply or manufacture of illegal drugs is reasonably suspected.
- When the decision is reached that a search is appropriate the school should seek the student's consent. If consent is refused, a member of SLT should be informed. Parents / carers will be called in an attempt to persuade the student to consent. Failing this, the police may be contacted.
- A student's possessions can only be searched in the presence of the student 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.
- A written record of all searches should be made, setting out the main details of the search such as date, time, location, people and the outcome itself. Parents/carers should always be informed after a search has taken place.
- Any illegal items found as a result of the search should be handed to the Head who will pass them on to the Police.
- Any search, which involves forcible entry into school property, for example breaking into a secure locker, should not be undertaken without consultation with the Head.

- The School reserves the right to conduct a search of all school property without consent if it believes there is a significant threat to the welfare of the school as a whole.

## **Confiscation**

As a result of a 'With Consent' search 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.

Appropriate records should be kept whenever property is confiscated from a student in order for the school to defend its actions should the need arise. When an article is thought to be a weapon it must be passed to the Police.

The Head should be informed where appropriate.

As a result of a 'Without Consent' search In the case of a 'without consent' search, the staff member may seize anything that they have reasonable grounds for suspecting is a defined prohibited item (as stated previously). The Deputy Head (Behaviour) should be informed where appropriate.

Any confiscated items will be dealt with in accordance with the DfE guidance Screening, Searching and Confiscation (January 2018). In particular:

- If alcohol is found, it may be retained or disposed of. The Head should be informed.
- Any controlled drugs must be handed over to the Police as soon as possible unless there is good reason not to do so in which case the drugs must be disposed of. If there is any question about a substance being a controlled drug they should be treated as such. Other substances, such as 'legal highs' must be confiscated and handed over to the Head.
- If staff find stolen goods these must be delivered to the Police unless there is good reason not to do so, in which case the item should either be returned to the owner, or, if this is not practicable, the items should be retained or disposed of. Appropriate records should again be kept.

## **Complaints and Allegations**

Any complaint or allegation of misconduct arising from an incident should be put in writing using the school's complaints procedure. 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 and followed school procedures

**Parents are asked to sign a declaration that they are aware of the Search Policy in school. This document is discussed with parents at their admission meeting.**

For Parents to sign as part of the home/school agreement:

### **SEARCH AND CONFISCATION POLICY**

Where the school has reasonable grounds to suspect the possession prohibited items the following procedures will be adopted:-

1. The child will be counselled and invited to surrender the prohibited items which will be secured in a place of safety and if necessary Police will be involved.
2. If the Child is not forthcoming in giving in the prohibited items he/s will be requested for a second time. They will be informed that unless the object(s) is surrendered a search will ensue.
3. A search will be conducted by no fewer than two members of staff (of the same sex as the student), one of whom will be middle management or above. The child in question will also be asked whether they would like a witness of their choice to be present. It will take place in an appropriate location.
4. All incidents involving searching and their outcomes will be entered in a Search Log (see Appendix A) to be kept in the SLT Office.
5. If the suspected child still refuses to hand over the illicit article(s) then the local Police may be involved. If they are called there is every possibility it will involve the use of Police Sniffer Dogs to search for illicit substances.

I confirm that I have read and understand The Oak Bank School Search Policy

Name: .....

Signature: .....

Date: .....

School: .....

This policy has been drawn up in accordance with the DfE's guidance Screening, Searching and Confiscation (January 2018).

## Search and Confiscation Log

Name of Student	Item taken/Nature of incident	Action taken	Staff members	Date	SLT Signature
			1 2		
			1 2		
			1 2		