



## SEARCHING AND CONFISCATION POLICY

### Introduction

This policy is based on the following guidance and policies:

- DfE Searching, Screening and Confiscation July 2022;
- DfE School Discipline and Exclusions October 2016;
- 'Keeping Children Safe in Education' September 2022;
- Safeguarding (Child Protection) Policy
- Alcohol, Drugs and Substances Policy & Guidance
- Anti-Bullying Policy
- Online Safety Policy
- Pupil Online Safety Policy
- Promoting Positive Behaviour Policy
- Pupil Code of Conduct

We respect our school's obligation under article 8 of the European Convention on Human Rights to respect pupils' right to privacy and to ensure proportionate responses. This policy is applicable to all pupils, including those in the EYFS.

At JAGS, trust between pupils and staff is part of our ethos and we would hope that the need to conduct a search on a pupil would be a very rare one and the decision would only be taken when there is concern that a pupil has in their possession a prohibited item which could cause harm to their welfare, or is harmful or detrimental to the JAGS community.

### When should a search be carried out?

The Head and staff authorised by the Head have a statutory power to search a pupil or their possessions where they have reasonable grounds to suspect that the pupil may have a prohibited item (listed below) or any other item that the Promoting Positive Behaviour Policy identifies as an item which may be searched for.

Prohibited items:

- Knives and weapons

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- Alcohol
- Illegal drugs
- Stolen items
- 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 of, any person (including the pupil)
- An article specified in regulations
  - Tobacco and cigarette papers
  - Fireworks
  - Pornographic images

Under common law, school staff have the power to search a pupil for any item if the pupil agrees. The pupil's agreement must be informed – they must understand the reason for the search and how it will be conducted.

### **Who can undertake a search?**

Under government guidance, only the Head, or a member of staff authorised by the Head, can carry out a search. The Head can authorise individual members of staff to search for specific items or all items set out in the school's Promoting Positive Behaviour Policy. At JAGS, the Head authorises the Deputy Head People (Senior School) or the Deputy Head Pastoral (Junior School), in consultation with the Designated Safeguarding Lead, to make the decision to search pupils or their possessions. On school trips, the Trip Leader must consult with the JSLT / SSLT emergency contact before searching a pupil, unless there is immediate risk of harm.

### **Before undertaking a search**

The authorised members of staff (usually the Deputy Head People (Senior School) / Deputy Head Pastoral (Junior School) and the Designated Safeguarding Lead) 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.

If a pupil refuses to cooperate with the search, their parents should be called. It may be appropriate to sanction the pupil in line with the school's Promoting Positive Behaviour Policy. The member of staff should consider whether it is appropriate to use reasonable force to conduct the search. Reasonable force may be used to search for prohibited items but not for those identified only in the school's Promoting Positive Behaviour Policy. Consideration should be given to whether conducting the search will prevent the pupil harming themselves or others, damaging property or from causing disorder. The school's Use of Reasonable Force policy should be followed.

## During a search

Any search would be carried out sensitively to protect the privacy and reputation of the pupil. Where possible, a location away from other pupils should be found. The search must only take place on the school premises or where the member of staff has lawful control or charge of the pupil, for example, on a school trip in England. Please note that on residential trips abroad, the laws of that country apply.

The law states the member of staff conducting the search must be of the same sex as the pupil being searched. There must be another member of staff present as witness to the search.

A member of staff can search a pupil of the opposite sex and / or without a witness present **only**:

- If the member of staff carrying out the search reasonably believes there is risk that serious harm will be caused to a person if the search is not carried out as a matter of urgency **and**
- In the time available, it is not reasonably practicable for the search to be carried out by a member of staff who is the same sex as the pupil **or** it is not reasonably practicable for the search to be carried out in the presence of another member of staff

Where a member of staff conducts a search without a witness they should immediately report this to another member of staff, and ensure a record of the search is kept.

A member of staff may search a pupil's:

- Outer clothing – this means any item of clothing that is not worn wholly next to the skin or immediately over a garment that is being worn as underwear, as well as hats, shoes, boots or scarves
- Pockets
- Possessions – this means any goods over which the pupil has or appears to have control, including desks, lockers and bags

A member of staff may search lockers, desks or other personal spaces at school for any item as long as the pupil agrees. If the pupil does not agree to the search, a search may only be conducted for the prohibited items or any items listed in the school rules for which a search can be made. A pupil's possessions should 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.

## Strip searching

Strip searches on school premises can only be carried out by police officers under the Police and Criminal Evidence Act 1984 (PACE) Code A and in accordance with the Police and Criminal Evidence Act 1984 (PACE) Code C. The decision to undertake the strip search and its conduct are police matters, but school staff retain a duty of care to the pupil(s) involved and should advocate for pupil wellbeing at all times.

Should a strip search be deemed necessary, the Head or her nominated deputy must follow the guidance in the Department for Education's "[Searching, Screening and Confiscation](#)" advice, updated July 2022.

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## **After a search**

Whether or not any items have been found, the school should consider whether the pupil may need any specific support – such as pastoral support within the school, an early help intervention or a referral to children’s social care. The guidance in the Safeguarding (Child Protection) Policy will be followed.

If a pupil is found to be in possession of a prohibited item, the DSL should be informed.

Any search should be recorded in CPOMS, including whether or not an item is found. This will allow the DSL to identify possible risks and initiate a safeguarding response if required. The record should include:

- Date, time and location of search
- Which pupil was searched
- Who conducted the search and any other pupils / staff present
- What was being searched for
- The reason for searching
- What items, if any, were found
- What follow-up action was taken as a result of the search

Parents should be informed of any search for a prohibited item. The school should consider whether to inform parents of a search for an item banned by the school Promoting Positive Behaviour Policy.

Any complaints about searching or confiscation should be dealt with through the normal school complaints procedure.

## **Confiscation**

If found, the following items must be delivered to the police as soon as possible:

- Controlled drugs
- Other substances (not controlled) which may be harmful
- Stolen items
- Weapons or items which are evidence of a suspected offence

If found, the following items can be disposed of safely:

- Alcohol
- Tobacco
- Cigarette papers
- Fireworks

If a member of staff finds a pornographic image, they may dispose of it unless they have reasonable grounds to suspect that its possession constitutes a specified offence (eg it is an indecent image of a child) in which case it must be delivered to the police as soon as possible.

For further information about confiscation, please see the government advice document Searching, Screening and Confiscation 2022. If any member is in doubt about what action should be taken, they should speak to the Designated Safeguarding Lead.

Schools' general power to discipline 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 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.

## Appendix

### Statutory Guidance For Dealing With Electronic Devices

- Electronic devices can contain files or data which relate to an offence or which may cause harm to another person.
- As with all prohibited items, staff should first consider the appropriate safeguarding response if they find images, data or files on an electronic device that they reasonably suspect are likely to put a person at risk.
- Staff may examine any data or files on an electronic device they have confiscated as a result of a search, if there is good reason to do so
- If the member of staff suspects they may find an indecent image of a child, the member of staff should never intentionally view the image, and must never copy, print, share, store or save such images. When an incident may involve an indecent image of a child, the member of staff should confiscate the device, avoid looking at it and refer the incident to the Designated Safeguarding Lead or Deputy DSL.
- In this event, the DSL or DDSL will follow the principles set out in KCSIE, taking advice from the local authority as appropriate.
- If a member of staff finds any image, data or file that they suspect might constitute a specified offence, then they must be delivered to the police as soon as is reasonably practicable.
- In exceptional circumstances, members of staff may dispose of the image or data if there is a good reason to do so. In these circumstances, the member of staff must have regard to the following guidance issued by the Secretary of State:
  - In determining a 'good reason' to examine 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 undermine the safe environment of the school and disrupt teaching or to commit an offence
  - In determining a 'good reason' to erase any data or files from the device, the member of staff should consider whether the material found may constitute evidence relating to a suspected offence. In those instances, the data or files should not be deleted, and the device must be handed to the police as soon as it is reasonably practicable. If the data or files are not suspected to be evidence in relation to an offence, a member of staff may delete the data or files if the continued existence of the data or file is likely to continue to cause harm to any person and the pupil and/or the parent refuses to delete the data or files themselves