

Kingsbrook School

'A unique service for unique students'

Searching, Screening and Confiscation Policy

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31st August 2020
Review: 30th August 2021

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Our Aim

At Kingsbrook we will follow the Department of Education guidance which is intended to explain the school powers of searching and screening students so that school staff have the confidence to use them. In particular, it explains the use of the power to search students without consent. It also explains the powers the school has to seize and then confiscate items found during a search. It includes statutory guidance which the school must have regard to.

Searching

The Head of School and staff authorised by them have a statutory power to search students or their possessions, without consent, where they have reasonable grounds for suspecting that the pupil may have a prohibited item. Prohibited items are:

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

The Head of School 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.

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.

Screening

Kingsbrook School does not intend to use electronic screening devices however if this were to be the case in the future then the Head of School and authorised staff can require students to undergo screening by a walkthrough or handheld metal detector (arch or wand) even if they do not suspect them of having a weapon and without the consent of the students. Schools' statutory power to make rules on pupil behaviour and their duty as an employer to manage the safety of staff, students and visitors enables them to impose a requirement that students undergo screening.

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 students 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 will be treated as unauthorised. The pupil should comply with the rules and attend.

Searching with Consent

Schools' common law powers to search:

School staff can search students with their consent for any item. Staff are not required to have formal written consent from the pupil for this sort of search – it is enough for the teacher to ask the pupil to turn out his or her pockets or if the teacher can look in the pupil's bag or locker and for the pupil to agree.

If a member of staff suspects a pupil has a banned item in his/her possession, they will instruct the pupil to turn out his pockets or bag and, if the pupil refuses, the staff member can apply an appropriate punishment as set out in the school's Behaviour Management 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

At Kingsbrook School staff have the power to search without consent for:

- Knives or weapons, alcohol, illegal drugs and stolen items; and
- 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; and
- Any item banned by the school rules which has been identified in the rules as an item which may be searched for.

The staff member conducting the search will be the same sex as the pupil being searched. There will be a witness (also a staff member) and, if at all possible, they will be the same sex as the pupil being searched.

Staff members 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 staff member must

decide in each particular case what constitutes reasonable grounds for suspicion. For example, they may have heard other students 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 member of staff conducting the search should bear in mind that a pupil's expectation of privacy increases as they get older.

During the Search

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.

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.

After the Search

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.

A staff member 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 staff member 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.

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 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 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.

Further Advice

Department for Education: Searching, Screening and Confiscation. Advice for Head Teachers, school staff and governing bodies February 2014.

www.gov.uk/government/publications/searching-screening-and-confiscation