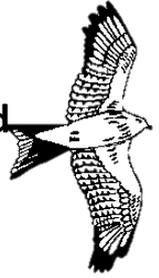




Boxgrove and Kidbrooke Park Primary Schools and Kidbrooke Park Learning Centre



Positive Behaviour Management policy

Appendix 2

Searching with Consent

Schools' common law powers to search:

- School staff can search pupils with their consent for any item
- Schools 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 their pockets or if the teacher can look in the pupil's bag or tray and for the pupil to agree.

If a member of staff suspects a pupil has a banned item in their possession, they can instruct the pupil to turn out their pockets or bag and if the pupil refuses, the teacher 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 child refuses to stop any other unacceptable behaviour when instructed by a member of staff – in such circumstances, an appropriate sanction should be applied.

Searching without Consent

What can be searched for?

- 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, 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 search?

The Headteacher, or a members of the schools staff who has been authorised to do so by the Headteacher. The Headteacher should decide who to authorise to use these powers. There is no requirement to provide authorisation in writing. However, staff can refuse to conduct a search.

Under what circumstances?

You must be the same sex as the pupil being searched; and there must 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. You can carry out a search of a pupil of the opposite sex to you 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.

When is it appropriate to search?

If you have reasonable grounds for suspecting that a pupil is in possession of a prohibited item. The teacher 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.

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 or in the training settings.

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 trays and bags. The power to search with 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 (eg a police officer) can do. Authorised staff are able to search trays for any item provided the pupil agrees. It is a condition of having a tray 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, then it is possible to conduct a search without consent but only for the 'prohibited items' listed above.

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.

Items found as a result of a 'without consent' search

A person carrying out a search can seize anything they have reasonable grounds for suspecting is a prohibited item or may be evidence in relation to an offence. Any items seized should be disclosed to and discussed with the Headteacher and dealt with appropriately, following the advice of the Department of Education document 'Searching, Screening and Confiscation – Advice for Headteachers, school staff and Governing Bodies'.

Informing parents and dealing with complaints

There is no requirement to inform parents before a search takes place or to seek their consent to search their child. There is no legal requirement to make or keep a record of a search. However the school will inform the individual pupil's parents or guardians following a search, though there is no legal requirement to do so. Complaints about searching and confiscation should be dealt with through the school Complaints Procedure.