



THE COLNE
COMMUNITY SCHOOL & COLLEGE

Search and Confiscation Policy

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Statement of intent

The Colne Community School and College appreciates that students have a right to expect a reasonable level of personal privacy and will do its utmost to ensure that, as far as possible, this right is respected.

However, the school also takes seriously its obligation under health and safety legislation to be managed in a way which does not expose students or staff members to unnecessary risks.

This policy sets out the framework in which the school will meet this obligation by outlining the circumstances in which authorised staff members search students, particularly without consent. It also outlines the legal powers to seize and then confiscate items during a search, and to view imagery on a student's mobile device to protect the student and/or others.

Staff members authorised by the Interim Executive Head Teacher (including the Interim Executive Head Teacher) with search powers are:

- **Steven Crane**
- **Gregg Heighway**
- **Michael Pulford**
- **Kate Poynter**
- **Adam Barber**
- **Jenny Tonkinson**
- **David Grimwood**
- **Jackie Gunther**
- **Ian Nicholls**

Legal framework

This policy takes regard of the following legislation:

- Health and Safety at Work Act 1974
- Education Act 1996
- Education and Inspections Act 2006
- The Schools' (Specification and Disposal of Articles) Regulations 2012
- School Behaviour (Determination and Publicising of Measures in Academies) Regulations 2012
- European Convention on Human Rights.

It also has regard to the following pieces of statutory guidance and advice:

- DfE (2018) 'Searching, screening and confiscation'
- DfE (2013) 'Use of reasonable force'
- DfE (2016) 'Behaviour and discipline in schools'.

Authorisation

The Interim Executive Head Teacher has the responsibility to decide who to authorise to use these powers, but there is no requirement to provide authorisation in writing.

- Staff members may refuse to carry out a search
- Staff members can be authorised to search for some items but not others
- If possible, staff members must be the same sex as the student being searched and there must be a witness (also a staff member)
- Staff members can search a student of the opposite sex only where there is reasonable cause to suspect that there is a risk of serious harm to a person, if a search is not conducted immediately
- Staff members can search a student without a witness present only where there is reasonable cause to suspect that there is a risk of serious harm to a person, if a search is not conducted immediately

Training

When designating a member of staff to undertake searches under these powers, the Interim Executive Head Teacher should consider whether the member of staff requires any additional training to enable them to carry out their responsibilities.

Establishing grounds for a search

The Colne Community School and College has the right to search students with their consent for any item. Formal written consent is not required. It is enough for the

teacher to ask the student to turn out his/her pockets and look in the student's bag or locker and for the student to agree.

Members of staff can instruct a student to turn out his/her pockets or bag, if it is suspected that the student has a banned item in his/her possession. If a student refuses, the teacher will apply the appropriate punishment as outlined in the school's Behaviour for Learning Policy.

A student's refusal to cooperate with such a search raises the same kind of issues as where a student refuses to stay in a detention or refuses to stop any other unacceptable behaviour, when instructed by a member of staff. The appropriate disciplinary consequence will be applied.

Location

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 student.

Searching without consent

Authorised staff members can undertake a search without consent, if there are reasonable grounds to suspect that a student is in possession of a prohibited item, as outlined in section 8 of this policy.

Prohibited items

The following items are prohibited:

- Knives or weapons, alcohol, illegal drugs and drug related paraphernalia and stolen items
- Tobacco and paraphernalia, fireworks and pornographic images
- Any article that a 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
- Any item banned by the school rules which has been identified in the rules as an item which may be searched for.

Banned items

Items banned by the school rules may only be searched under these powers if it has been identified in the school rules as an item that can be searched for.

Banned items include:

- Legal highs
- Paint thinners

- Non-prescribed hypodermic needles
- Any item intended for sale and profit.

The school rules must be determined and publicised by the Interim Executive Head Teacher.

During the search

Members of staff can use such force as is reasonable given the circumstances, when conducting a search for prohibited only items, but cannot use force to search for items banned only under school rules.

The power to search without consent enables a personal search, involving removal of outer clothing and the searching of pockets, but not an intimate search going further than that, which only a person with more extensive powers (i.e. a police officer) can do.

Outer clothing means clothing that is not worn next to the skin or immediately over a garment that is being worn as underwear, but includes hats, shoes, boots, gloves and scarves.

Authorised staff members can search lockers and desks for any item, provided the student agrees and 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.

If a student does not consent to a search or withdraws consent, then it is possible to conduct a search without consent but only for prohibited items.

After the search

Staff members can confiscate, retain or dispose of a student's property as a disciplinary penalty, where reasonable to do so.

Staff members 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 an article is thought to be a weapon, it must be passed on to the police.

Staff members are legally protected 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 person 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, he/she may retain or dispose of it as they think appropriate, but must not return it to the student.

Where a staff member finds:

- Controlled drugs or drug related paraphernalia; 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
- 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 discipline, including legal highs. Where staff suspect that a substance may be controlled, they should treat them as controlled drugs as above
- Stolen items; these must be delivered to the police as soon as reasonably practicable, but may be returned to the owner, or disposed of, if the person thinks there is good reason to do so
- Tobacco, cigarette papers or smoking related paraphernalia; they may retain or dispose of them, but must not return them to the student
- Fireworks; they may be retain or dispose of them, but must not return them to the student
- Pornographic images; 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 is reasonably practicable. Images or footage found on a mobile phone or other electronic device can be deleted unless it is necessary to pass them to police
- An article that has been or could be used to commit an offence, or to cause personal injury or damage to property; this may be retained, disposed of, delivered to the police or returned to the owner, as appropriate
- An item banned under the school rules; staff should take into account all relevant circumstances and use their professional judgement to decide whether to return it to its owner, retain it or dispose of it
- Weapons or items which are evidence of an offence, these must be passed to the police as soon as possible

Searching devices, viewing and deleting imagery

Adults should **not** view youth produced imagery unless there is good and clear reason to do so. Wherever possible responses to incidents should be based on what the designated safeguarding lead has been told about the content of the imagery.

The decision to view the imagery should be based on the professional judgement of the designated safeguarding lead and comply with the school's Child Protection Policy.

The decision to view the imagery should be made by the designated safeguarding lead based on:

- Whether other agencies need to be involved
- It is necessary to report the image to have it removed
- It was unavoidable because a student presented the image directly to a member of staff or it has been found on the school network or device.

The imagery should:

- Not be printed, copied or shared
- Only be viewed by the designated safeguarding lead or a member of staff with responsibility delegated by the Interim Executive Head Teacher
- Ensure viewing takes place with another member of staff present in the room; this person does not have to see the imagery
- Where possible, be viewed on the school site or, if elsewhere, where the member of staff has lawful control or charge of the student
- Ensure, where possible, the images are viewed by a staff member of the same sex as the young person involved
- Record the viewing of the imagery within the school's safeguarding log.

If no other agencies are required to be involved, the school can consider that the imagery can be deleted from devices and online services to limit any further sharing of the imagery.

The Search, Screening and Confiscation advice highlights that the school has the power to search students for devices, search data on devices and delete youth produced sexual imagery.

Parental consent

The Colne Community School and College is not required to inform parents before a search takes place or to seek their consent to search their child.

The Colne Community School and College will inform the individual student's parents / guardians where alcohol, illegal drugs or potentially harmful substances, though this is not a legal obligation.

Monitoring/reporting

Although it is not a legal requirement to do so, for the purposes of accountability and transparency, the school will keep a record of all searches undertaken by authorised staff members.

Enforcement

The Colne Community School and College expects authorised staff members to use their search powers in accordance with the provisions of this policy.

Staff members that abuse these powers or search students without consent for items other than those which are prohibited, will be subject to the appropriate disciplinary action.

Complaints

Complaints about searching should be dealt with through the school's normal complaints procedure.

Policy circulation

This policy is available to all members of staff and a copy is located within the staff shared area on the school network. It will also be available on the school website.

Policy review

This policy is reviewed every **two years** by the Interim Executive Head Teacher and **LGB**.

The scheduled review date for this policy is October 2020.