



*Dream, Believe, Persevere, Achieve*

# Cape Cornwall School Banned Substances, Search and Confiscation Policy

**Dissemination:** Website, Shared Staff O Drive

**Date policy approved by Governors:** 11 February 2021

**Date policy becomes effective:** Immediately

**Review date:** UNDER REVIEW

**Person responsible for Implementation and Monitoring:** Headteacher

**Links to other relevant policies:** Student Behaviour, Exclusion, Safeguarding

**Legislative Links:** Education Act 1996, Education and Inspections Act 2006, Education Regulations 2010, The Schools Regulations 2012, School Behaviour Regulations 2012, Health and Safety at Work Act

## 1.0 Policy Aims

- To clarify the substances which the Academy considers unsafe and should not be brought into school by students;
- To clarify the procedure by which staff will reasonable search for and confiscate banned substances.

## 1.1 Introduction

In order to protect the safety of all members of the school community, the Academy considers a range of substances unsafe in a school context. These substances are therefore banned from the school site and must not be brought into school by students (See Appendix 1).

This policy is written in conjunction with advice from the Department for Education which details searching, screening and confiscation in a school setting. This advice is occasionally updated and the Academy will revise this policy and the procedures within it in response to updated guidance from the DfE. This guidance includes statutory guidance which the Academy must have regard to and which is incorporated within this policy.

## 2.0 Searching

Headteachers and staff authorised by them have a statutory power to search students and/or their possessions where there are reasonable grounds for suspecting that a student may have a banned substance. Banned substances include:

- Knives or weapons
- Alcohol
- Illegal drugs
- Stolen items
- Tobacco and materials associated with smoking tobacco e.g. cigarette papers
- Fireworks
- Pornographic images
- Any item banned by the school which has been identified by the school as a banned item (see Appendix 1)

- Any article that is reasonably suspected to have been, or is likely to be used to commit an offence
- To cause injury, or damage to property (to others or the student)

Wherever possible, the consent of the student to make the search will be obtained. In the circumstance that the student does not consent, the authorised school staff have a statutory power to search without consent where there are reasonable grounds to do so.

## **2.1 Searching with consent**

School staff can search students for any item with their consent. Wherever possible a student will be asked to give consent prior to a search being done. Written consent is not required. It is sufficient for the member of staff to ask the student to turn out their pockets, to look in their bag or locker and for the student to agree.

If a student does not agree to this search and refuses, the school may apply an appropriate sanction for refusal, as within the school's Behaviour policy. This form of refusal is considered similar to that where a student refuses to co-operate with a reasonable request from a member of staff, or a requirement within the school's Behaviour policy. If the circumstances of the refusal are considered to be serious, e.g. if the item that the student is reasonably thought to have in their possession is illegal or could pose a safety risk to them or other members of the school community, then refusal to co-operate may result in a fixed term exclusion.

## **2.2 Searching without consent**

Wherever possible the school will search with the consent of the student. Where a student does not consent, and there are reasonable grounds to consider that the student is in possession of an item listed in Appendix 1, then authorised school staff may search without consent. Staff who are authorised to search a student without consent are: the Head of School, Deputy Headteachers, Assistant Headteachers, the Head of Upper School and the Head of Lower School.

In authorising staff to search for banned substances, due regard to the safety of staff will be considered. Where the items being searched for could pose a safety risk to the member of staff e.g. knives, then the assistance of the police will be sought.

All authorised staff will receive appropriate advice and training in order to conduct the search with due respect for the student, and to ensure their own safety and that of other members of the school community.

## **2.3 Procedure to be followed to carry out a search**

Wherever possible, a search will be carried out in an area of the school which provides the student with a suitable level of privacy e.g. an office, pastoral team workspace.

The member of staff conducting the search will be the same sex as the student. The search will take place with a second member of staff present whenever it is practical for this to be arranged. Ideally this witness will also be the same sex as the student being searched. If there are reasonable grounds to suspect there is a risk of serious harm if the search is not done immediately, then the search may be carried out by an authorised member of staff of the opposite sex, without a witness present.

Prior to the search, the student will be asked to confirm if they have any item on them that is banned by the school. The student will be informed that the school has the power to search for

banned items. The student will be asked if they have any item in their belongings which could pose a risk to the member of staff carrying out the search.

The student will be asked to turn out their pockets and remove their coat and/or blazer and shoes. These are considered to be outer clothing. Gloves, hats and scarves are also considered outer clothing. The member of staff conducting the search will check these items of outer clothing and return them to the student. The member of staff will check the student's bag and contents. The member of staff will check the student's locker. It is a condition of a student being allocated a locker that they consent to the school being able to search it on request as a reasonable request to protect the safety of the school community. It is also a condition that the school may search a student's locker with or without them present.

At all times the search will be conducted in a supportive and reassuring way and with due respect for the student and their privacy, taking into account the student's age.

## **2.4 Reasonable grounds**

A search can be conducted without consent where there are reasonable grounds to do so. It is for school staff to decide what constitutes reasonable grounds. Some examples of reasonable grounds include:

- Students have been overheard talking about banned substances
- The student is behaving in such a way that causes suspicion that they may in possession of a banned substance
- As a result of reports from another member of staff
- As a result of concerns raised by parents or other members of the community
- As a result of CCTV footage

## **3. Use of Force**

Authorised members of staff are permitted to use reasonable force to search for knives or weapons, alcohol, illegal drugs, stolen items, tobacco, fireworks, pornographic images or articles which have been or could be used to commit an offence or cause harm. Wherever possible, school staff will not use force to search a student unless there is an immediate risk of harm if the search did not take place. Please refer to the Physical Handling policy for further information on the use of reasonable force.

## **4. School's obligations on Human Rights**

Under Article 8 of the European Convention on Human Rights, students have a right to respect for their private life. This means students have the right to expect a reasonable level of personal privacy. This will be provided for by ensuring that, wherever practically possible, and where there is no immediate risk of harm, the search will be conducted in an area of school with a reasonable level of privacy e.g. office or pastoral work area. The right to privacy is not absolute and can be interfered with where doing so is justified and proportionate. The powers to search in the Education Act 1996 are compatible with Article 8. In writing this policy and in implementing the guidance from the DfE, adherence to this policy ensures that in exercising its power to search, school procedures will be compatible with Article 8.

## **5. Confiscation and Disposal of Banned Substances**

The school will confiscate any banned item found during a search, in accordance with the Education and Inspections Act 2006. In addition, the school will confiscate any item considered

harmful or detrimental to school discipline, not explicitly listed as a banned substance by the school. In general, any banned item found during a search will be safely disposed of by the school, in accordance with the following:

- Any item which is reasonably thought to be a banned item will be confiscated
- Alcohol will be confiscated and disposed of
- Controlled drugs, or substances thought to be controlled drugs will be delivered to the police unless there is good reason to arrange for their immediate disposal.
- Other substances which are not controlled drugs, but are considered harmful or detrimental to good order and discipline e.g. 'legal highs', vaping substances and equipment will be confiscated and disposed of.
- Stolen items, or substances/items believed to be stolen will be delivered to the police. Where the property belongs to another student or member of staff and is not a banned substance, then the school staff may decide to return the item to the owner.
- Tobacco and materials associated with smoking tobacco or vaping will be confiscated and disposed of.
- Fireworks will be confiscated and disposed of.
- Pornographic images will be disposed of. In the case there are reasonable grounds to suspect that possession constitutes an offence e.g. child pornography then the items will be delivered to the police as soon as possible.
- Where an item has been, or is likely to be used to commit an offence it will be delivered to the police or disposed of.
- All weapons will be delivered to the police.
- Other items which are banned by the school will be confiscated and disposed of. Only where there is good reason to do so, and where return would not contribute to a substantial risk to safety, will confiscated items be retained by the school and returned to parents. Confiscated items will **not** be returned to students. Confiscated items will only be retained for a maximum of 48 hours whilst waiting for collected by parents before being disposed of.

All confiscated items must be given to the Head of School who will arrange safe disposal. Disposal of confiscated items will be arranged safely, the same day as confiscation. Items held whilst arranging delivery to the police will be kept securely in the school safe or other suitable locked storage. A photographic record of confiscated items will be made and held in the school's records for future use.

## **6. Search of electronic devices**

Where a search reveals an electronic device that is prohibited in school rules or is reasonably suspected that it has been, or is likely to be, used to commit an offence or cause injury or damage to property, then the member of staff can examine data and files on the device. This includes searching a student's mobile phone files where there are reasonable grounds to suspect these have been or are likely to be used to commit an offence or cause injury or damage to property. Parental consent is not required for this search nor is the consent of the student. NB Sexting is considered to put a child in danger and is therefore reasonable grounds for search and confiscation of the device, data and files.

Data or files may be deleted if there are grounds to do so. Where the search reveals data or files that could constitute an offence or is related to an offence e.g. child pornography, then the device, data and files will be delivered to the police. Data and files should not be deleted in these circumstances.

Good reason to conduct a search of data and/or files on an electronic device is where the member of staff reasonably suspects that the data or file has been, or could be, used to cause harm, to disrupt teaching or to break the school rules.

## **7. Informing parents/carers**

The school is not required to inform parents prior to a search taking place nor is the school required to seek their consent to search. Where a search results in alcohol, illegal drugs or harmful substances being found then the school will inform parents. Parents will be informed by either phone call by a member of the pastoral team or email and will be informed on the same day as the search takes place. A record of the search including a photo of any confiscated items, will be kept by the school.

## **8. Complaints**

Complaints about searching or confiscation will be managed using the TPAT Complaints procedure.

## **9. Communication**

The school will regularly explain to parents and students which items are banned from the school site. This will be achieved via assemblies and/or tutor time and through school email. This policy will be made available to parents and students via the school website. The Behaviour policy and Banned Substances policy will be shared with parents, in writing, at least once a year.

## **APPENDIX 1**

### **KEEPING STUDENTS SAFE:**

#### **BANNED SUBSTANCES**

The school places a high priority on ensuring a safe and orderly learning environment for all members of the school community. We take the safety of students and staff very seriously and for that reason, students are not permitted to bring the following items to school:

- Aerosol cans
- Energy drinks containing caffeine e.g. 'Red Bull'
- Lighters or matches, flammable substances
- Fireworks
- Tobacco, cigarettes, cigarette papers, filters, e-cigarettes or other nicotine replacement products
- Knives, (including penknives), razor blades, catapults or any other dangerous item
- Alcohol
- Illegal drugs or 'legal highs' or any item associated with the use of illegal drugs
- Any other substance or item which could reasonably be considered to pose a risk to the safety of the school community.

Schools are permitted to search student's lockers, bags and property if we are concerned that something has been brought to school which poses a risk to students or staff. This is always done with consideration for the child and in the presence of 2 adults, one of whom is a member of the Leadership Team. We always talk to parents if a student is found in possession of any item on the above list.

Prescription medicines, painkillers and other medicines must be handed in to Reception for safe keeping during the school day.

Please note that instances of students bringing such items into school are very rare and we are very grateful to the strong support we have from parents to keep children safe. Should a student be found to have a banned item the school's Behaviour policy will be used to give an appropriate sanction linked to the severity of the incident. The item will be confiscated immediately. Illegal items are referred to the police. Other items are disposed of safely within 24 hours of confiscation.