Lancaster Academy

Searching and Confiscation Procedure

Lancaster Academy fully recognises the responsibility it has under section 157 of the Education Act 2002 to have arrangements in place to safeguard and promote the welfare of children.

This procedure applies to all staff, volunteers and contractors, paid and unpaid, working in the school including governors.

This procedure has been written using advice taken from Searching, Screening and Confiscation: Advice for
Headteachers, school staff and governing bodies DfE 2022
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1091132/Searching__Screening_and_Confiscation_guidance_July_2022.pdf

The school acknowledges its legal duty to make reasonable adjustments for disabled children and children with special educational needs (SEN). Equality Act 2010

Search with Consent

- School staff can search a pupil for any item if the pupil agrees. The school will consider the age of the child when considering consent.
- 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. They do not need written consent from the child.
- The school makes clear in their school behaviour policy and in communications to parents and pupils what items are banned.
- If a member of staff suspects a pupil has a banned item in his/her possession, they can instruct the pupil to turn out his or her 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 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 sanction

Search Without Consent

- The Principal and staff authorised by the Principal have a statutory power to search pupils 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, vapes 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 to, or damage to the property of, any person (including the pupil)

- The staff member conducting the search 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. Staff can carry out a search of a pupil of the opposite sex without a witness present, but only where the staff member reasonably believes that there is a risk that serious harm will be caused to a person if they do not conduct the search immediately and where it is not reasonably practicable to summon another member of staff.

Establishing grounds for a search

- Teachers 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 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.
- 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.
- The powers allow school staff to search regardless of whether the pupil is found after the search to have that item. This includes circumstances where staff suspect a pupil of having items such as illegal drugs or stolen property that are later found not to be illegal or stolen.
- School staff can view CCTV footage in order to decide as to whether to conduct a search for an item.
- 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 in England or in training settings.

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.
- When deciding what to do with the confiscated items, staff will follow the guidelines set out in Searching, Screening and Confiscation: Advice for Headteachers, school staff and governing bodies DfE 2018

Dealing with Electronic Devices (statutory guidance)

- Where the person conducting the search finds an electronic device they may examine any data or files on the device if they think there is a good reason to do so. Following an examination, if the person has decided to return the device to the owner, or to retain or dispose of it, they may erase any data or files, if they think there is a good reason to do so.
- The member of staff must have regard to the following guidance issued by the Secretary of State when determining what is a "good reason" for examining or erasing the contents of an electronic device.

- In determining a 'good reason' to examine or erase the data or files the staff member must reasonably suspect that the data or file on the device in question has been, or could be, used to cause harm, to disrupt teaching or to go against the expectation in the school's Behaviour Policy.
- If inappropriate material is found on the device it is up to the teacher to decide whether they should delete that material, retain it as evidence (of a criminal offence or a breach of school discipline) or whether the material is of such seriousness that it requires the involvement of the police.

Guidance for Carrying Out A Search
What the law says:

- 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.

Also note:

- The power to search without 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 (e.g. a police officer) can do.

- without consent but only for the "prohibited items" listed above.

Informing Parents

- There is no requirement for the school to inform parents before a search
- Parents may be informed as part of the school behaviour policy and procedures.
- Parents will be informed if the matter is sufficiently serious or could be potentially harmful to the pupil or the school.
- If a parent makes a complaint, the normal procedures for dealing with a complaint should be followed.

Record Keeping

- There is no legal requirement for the school to keep records of searches or confiscation.

The Designated Safeguarding Lead, Prevent Strategy Lead and Online Safety Lead is: Asifa Patel Vice Principal, 01162703176