

Policy on Searching Students



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1 Background

- 1.1 The Education Act 2011 gives school staff the power to search a student or their possessions if they believe them to be carrying any article which the staff member reasonably suspects:
 - has been, or is likely to be, used to commit a criminal offence; or
 - has caused or is liable to cause personal injury to, or damage the property of, any person; or
 - is any other item which the school rules identify as an item for which a search may be made (see paragraph 3.1).
- 1.2 Under schools' general power to discipline (Education and Inspections Act 2006) a member of staff may confiscate, retain or dispose of a pupil's property as a disciplinary penalty).
- 1.3 Staff are given the power to search a student even if they are under the age of criminal responsibility, and likewise staff of the opposite sex may still search a student if they believe the risk is so great that serious harm would be caused if they waited to find a staff member of the same sex as the student to be searched.
- 1.4 Powers are also included under the Act for members of school staff to seize an item discovered as a result of the search (provided the item is one which could be used to commit a criminal offence, cause personal injury or damage or is otherwise identified by school rules).
- 1.5 There are particular rules relating to electronic devices which allow such devices to be seized and examined for relevant data or files which might offend any applicable law or the school rules. The Act provides for the same regime regarding return of such devices but also deals with any offending data or files which may be erased from the device if the staff member believes there are good reasons for so doing (see Section 7).
- 1.6 This policy has been created in line with the DfE guidance: Searching, screening and confiscation (January 2018).

2 Authorisation to Search

- 2.1 The Headteacher has authorised all members of the Senior Team to conduct searches defined in this Policy, including searches of electronic devices. From time to time, the Headteacher may authorise other staff members in writing in advance of any search they may undertake, subject to appropriate training.
- 2.2 Only the Headteacher and members of the Senior Team are authorised to delete data/files on electronic devices.
- 2.3 Members of staff cannot be required to carry out such searches. They can each choose whether or not they wish to be an authorised member of staff.

3 Conducting Searches

- 3.1 Priestlands School operates on the basis of trust and respect for the privacy of each individual. However, sometimes this trust may be breached and this would necessitate the search of a student's possessions. Such circumstances may include suspected possession of prohibited items:
 - knives and weapons
 - stolen property;
 - alcohol; tobacco products or accessories; or illegal drugs;
 - fireworks;
 - pornography (whether printed or in electronic format);
 - an item which could be intended to cause personal injury to, or damage to the property of, any person (including the student);

- any article that a staff member reasonably suspects has been, or is likely to be, used to commit an offence;
 - any other items banned by the school rules which have been identified in the rules as items which may be searched for, namely: matches; lighters; items that may be used to cause bullying (e.g. through sending an image or message using digital means, such as phone, tablet, computer, or in writing).
- 3.2 The authorised staff member must have reasonable grounds for suspecting that a student is in possession of a prohibited item.

Searching with consent

- 3.3 Authorised staff may search with a student's consent for any item.

Searching without consent

- 3.4 Authorised staff may search without the student's consent only for items detailed in paragraph 3.1.
- 3.5 A student will be considered innocent until such time as the circumstances prove otherwise or strongly imply on the balance of probability that they have committed a breach of any of the school rules or policies or any relevant national law.
- 3.6 Where there are reasonable grounds to suspect that a student is involved in a situation where a search can help clarify the situation, then a search of their belongings will be undertaken.
- 3.7 The authorised staff member will take reasonable steps to check the ownership of any items (especially mobile phones/personal electronic devices) before carrying out a search.
- 3.8 This will usually be done with the student's consent and, where possible and appropriate, with the prior knowledge of the parents. In most cases, the student will be present and due consideration will be given to the student's privacy.
- 3.9 Staff conducting the searches will usually be of the same sex as the student and with a witness present, if possible also of the same sex as the student. However staff may search a student of the opposite sex and without a witness present, where they reasonably believe there to be 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.
- 3.10 A search may include examining the contents of a student's bags, locker, desk, cupboards, mobile phone, laptop or other electronic device. A student's possessions will only be searched in the presence of the student.
- 3.11 The student will be asked if there is anything in their possession that they know not to be theirs or that they should not have in their possession. The answers to these questions will be recorded and initialled by the staff member conducting the search and by the student.
- 3.12 A search without consent may be carried out for any item listed in paragraph 3.1. Searches do not require consent of either the student or their parent when they concern illegal items, those prohibited by the school rules or when there is reason to believe there may be harmful images stored on an electronic device such as a mobile phone, computer or tablet. Similarly, staff may access locked storage areas without consent and, if necessary, by forcible access if there is reasonable suspicion that any item listed in paragraph 3.1 may be stored in that area.

4 Use of Force

- 4.1 Force cannot be used to search without consent for items banned under the school rules regardless of whether the rules say an item can be searched for.

5 Searching a person

- 5.1 Members of staff may not carry out a physical search of a student or the clothes that they are wearing except in extremis. The student may be asked to remove any outer clothing such as a coat, sweatshirt, hat, gloves or footwear, and will be asked to empty their pockets or bags themselves. If they refuse to hand over a suspected illegal substance or a weapon, they will be detained under close supervision while the police are called.
- 5.2 Any action taken by the police, including possible searches of any clothing or of the student him- or herself, will be undertaken by them in accordance with the relevant statutory powers and may include a preliminary search on the school premises.

6 Confiscations

- 6.1 Authorised staff may seize any prohibited items found as a result of a search. They may also seize any item they consider harmful or detrimental to school discipline.

7 After the Search

- 7.1 Any illegal item found as a result of a search will be handed over to the police. Items which contravene school rules will be confiscated and will be returned to the student's parents at an opportune moment.
- 7.2 If the student's parents have not been notified prior to the search, they will be notified as soon as possible after the search by the Head of Year, member of the Senior Team or Headteacher as appropriate, irrespective of the outcome.

8 Recording the search

- 8.1 A record will be made of the search (see Appendix 1) and will include:
 - the name of the student, date of the search and area(s) or item(s) searched;
 - the reason why the search was deemed necessary;
 - those present during the search;
 - what the student said when asked if there was anything in their possession that they knew not to be theirs or that they should not have in their possession;
 - the outcome of the search, whether or not anything was found;
 - future actions;
 - how and when the parents were informed and by whom.
- 8.2 The record will be made at the time of the search and signed by the staff and student(s) present to confirm that it is an accurate record of what took place.
- 8.3 The record will be passed to the Headteacher who will inform those who need to know.

9 Searching Electronic Devices

- 9.1 The Education Act 2012 allows authorised persons to examine data on electronic devices if the device is prohibited by the school rules, or if they reasonably suspect it has been, or is likely to be, used to commit an offence or cause personal injury or damage to property and if they think there is a good reason to do so. In determining a “good reason” to examine or erase the data or files the authorised 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 could break the school rules. 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.
- 9.2 The Headteacher will publicise in writing the school behaviour policy to staff, parents/carers and students at least once a year. There will be clear links between this policy and the Behaviour Policy).
- 9.3 Authorised staff (as defined in Section 2) have the right to search for electronic devices where they 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 break the school rules. There is no need to have parental consent to search through a young person’s mobile phone.
- 9.4 The examination of the data/files on a device should go only as far as is reasonably necessary to establish the facts of the incident. Any further intrusive examination of personal data may leave the school open to legal challenge.
- 9.5 However, if inappropriate material is found on a device, or if a member of staff has reasonable grounds to suspect that such material exists on the device, the staff member must refer to the HT. The HT will decide whether to delete that material, retain it as evidence (of a break of school discipline) or, where there are reasonable grounds to suspect that it contains evidence in relation to an offence, give it to the police as soon as it is reasonably practicable. Examples of illegal activity would include:
- child sexual abuse images (including images of one child held by another child);
 - adult material which potentially breaches the Obscene Publications Act;
 - criminally racist material;
 - other criminal conduct, activity or materials.

10 Deletion of Data

- 10.1 Material that is suspected to be relevant to an offence will not be deleted before giving the device to the police.
- 10.2 In cases of sexting (‘youth produced sexual imagery’) senior staff will follow The UK Council for Child Internet Safety (UKCCIS) guidance ‘Sexting in Schools and Colleges – responding to incidents and safeguarding young people’. The school’s approach to sexting is reflected in its Child Protection policy.
- 10.3 If the authorised staff member does not find any material that they suspect is evidence in relation to an offence and the decision is made not to give the device to the police, they will decide if it is appropriate to delete any files or data from the device or to retain the device is evidence of a break in school discipline. The authorised staff member may decide to return the device to the student.

10.4 Only the Headteacher or a member of the Senior Team may decide to dispose of a device, erase data or files, if they think there is a good reason to do so.

10.5 A record will be kept of the reasons for the deletion of data/files.

10.6 Care must be taken not to delete material that might be required in a potential criminal investigation.

11 Care of Confiscated Materials

11.1 Staff are reminded of the need to ensure the safe keeping of confiscated materials to avoid the risk of compensation claims for damage/loss (particularly given the possible high value of some electronic devices).

12 Training, Awareness and Support

12.1 Members of staff will be made aware of the school's Policy on Searching Students and of the proviso relating to electronic devices at induction and at regular updating sessions on the school's E-Safety Policy

12.2 Members of staff authorised by the Headteacher to carry out searches for and of electronic devices and to access and delete data/files from those devices will receive training that is specific and relevant to this role.

12.3 Specific training is required for those staff who may need to judge whether material that is accessed is inappropriate or illegal.

12.4 The school has a duty of care responsibility in relation to those staff who may access disturbing images or other inappropriate material whilst undertaking a search. Seeing such material can be upsetting. Staff will be advised that they may contact the confidential Employee Support Line service. In extreme cases, the Headteacher will consider whether additional counselling should be provided.

13 Audit / Monitoring / Reporting / Review

13.1 The Headteacher will ensure that full records are kept of incidents involving:

- searches of students or their property;
- searches of mobile phones and electronic devices;
- the deletion of data/files;
- the disposal of items.

13.2 These records will be reviewed by the Governor with Lead Responsibility for Safeguarding on an annual basis.

13.3 This policy will be reviewed by the Headteacher and Governors every three years or in response to changes in legislation or guidance and evidence gained from school records.

13.4 The school is required to publish its Behaviour Policy to parents annually (including on its website); the Behaviour Policy will be cross-referenced with the Searching Students Policy.

Policy on Searching Students

Appendix 1: Record keeping

Name of Student:		Date:	
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Date:		Year group:		Tutor group	
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Reason for search
Nature of search
What did the student say when asked if there was anything in their possession that they knew not to be theirs or that they should not have in their possession?
Staff present during the search
Outcome of search
Future actions required
How and when parents were informed and by whom

Signature of student		Date:	
Signature of staff member conducting search			
Signature of staff member witnessing search			