



## Hillcross Primary School

# Confiscation Policy

### Introduction

At Hillcross Primary School we value good behaviour in the classroom and elsewhere to promote the school as a learning community and to ensure the school is a safe and effective learning environment. The highest regard is given to the quality of relationships between staff and children. We seek to develop independent and autonomous young people who are self-disciplined and who are able to self-regulate and manage their behaviour. We aim for Hillcross pupils to take responsibility for their actions so that the school can be a physically and emotionally safe place for pupils to develop. This policy should be read alongside the school's behaviour policy which sets out what is expected of pupils in the school, when engaged in school activities and as members of our wider community.

Pupils should not bring onto the school site or be in possession of items which detract from good behaviour or have a negative effect on their own learning or that of others.

Pupils should not be in possession of items which endanger the health, safety and wellbeing of other members of the school community.

All items of value (financial or sentimental) e.g. laptops, mobile phones, jewellery, whether or not they are permitted, dangerous or banned items, are brought into school at the student's own risk. They are not covered by the school's insurance and the school will not accept responsibility for any loss or damage.

Hillcross Primary School recognises and fully supports the right of children to respect, dignity and privacy. However, we also recognise, with regret, that on rare occasions it may be necessary for pupils and/or their possessions to be searched and prohibited items to be confiscated, in the interests, and for the safety, of other members of our school and/or the wider community.

### Background Legislation and Guidance

This policy should be read in conjunction with the following: Education Update 2011 09 ii Imminent Legislation and Guidance. The Education Act 2011 contains legislation on schools' powers of searching and screening pupils and, in particular, the use of the right to search pupils without their consent.

A guidance document issued by the Department for Education explains the powers schools have to seize and then confiscate items during a search. The guidance "Screening, Searching and Confiscation" is directed at Headteachers, school staff and governors and replaces 'Screening and searching of pupils for weapons: guidance for school staff', part of the Education and Inspections Act 2006.

Members of staff are permitted to confiscate inappropriate items and are protected from legal proceedings arising from the confiscation of the same.

Head teachers and staff authorised by them have a statutory power to search pupils or their possessions, without consent, where they suspect the pupil has certain prohibited items. The items that can be searched for under this power are:



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- 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 a) commit an offence, b) cause personal injury to, or damage to the property of, any person (including the pupil)
- any item banned by the school rules which has been identified in the rules as an item which may be searched for (e.g. mobile phones and other portable electronic equipment).

School staff can search a pupil for any item if the pupil agrees. (The ability to give consent may be influenced by the child's age or other factors). Consent in writing is not required.

School staff can seize (confiscate) 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.

Other items which might be considered for confiscation include, among other items not listed here,:

- Any item posing a threat to others: for example a laser pen being used to distract and possibly harm other pupils or staff;
- Any item posing a threat to good order for learning: for example a pupil using a personal music player in class;
- Any item which is against school uniform rules: for example a pupil refusing to take off a baseball cap on entering a classroom;
- Any item posing a health or safety threat: for example a pupil wearing jewellery in PE may present a safety threat to other pupils;
- Any item which is counter to the ethos of the school: for example material which might cause tension between one community and another;
- Any item which is illegal for a pupil to have: for example racist or pornographic material.

### **School Procedures for Searching for Prohibited Items**

If a pupil is suspected of being in possession of something prohibited in school (e.g. mobile phone, portable media player, etc.) or a stolen item, then the pupil should be asked to hand it over by emptying their pockets. If the pupil refuses, the matter should be referred immediately to a member of the Senior Leadership Team (SLT). If the pupil refuses a request by the SLT member to hand over the item they can apply an appropriate punishment as set out in the school's behaviour policy which may include the parents/carers being contacted to come into school. Dependent on the outcome, disciplinary action may follow commensurate with any misconduct arising.

If a pupil is suspected of being in possession of a weapon or drugs (see the **prohibited items** listed above) then a member of the Senior Leadership Team should be contacted immediately. The pupil will be seen by two senior members of staff and every effort made to persuade the pupil to hand over the item voluntarily. If the pupil refuses, and the situation is considered serious enough to proceed along formal lines, the police will be called and parents/carers informed. Until the police arrive the pupil will be kept under supervision in the Headteacher's / Deputy Headteacher's office or, should these be in use, another appropriate room.



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### Searching without Consent

Pupils and their possessions can be searched, without their consent, by the headteacher. All other members of staff must have the headteacher's authorisation to carry out a search. There is no requirement for this authorisation to be in writing. The headteacher **may not require** members of staff to conduct 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.

DfE guidance states that:

*The authorised adult carrying out 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 also be the same gender as the pupil being searched.*

At Hillcross we will adhere to this guidance as far as is practicable but we may not always have enough male members of staff in school to ensure both members of staff are the same gender as the pupil being searched. However, when conducting an effective search, the dignity and privacy of pupils will be respected.

### During the search

Clothes, possessions, desks and lockers may be searched.

1. The person conducting the search may not require the pupil to remove any clothing other than outer clothing.
2. '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.'
3. 'Possessions' means any goods over which the pupil has or appears to have control – this includes desks, lockers and bags.
4. 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.
5. 'The power to search without consent' enables a personal search, involving removal of outer clothing and searching of pockets.

### After the search

DfE guidance states,

*The law allows:*

*Schools' general power to discipline, as set out in Section 91 of the Education and Inspections Act 2006, enables a member of staff to confiscate, retain or dispose of a pupil's property as a disciplinary penalty, where reasonable to do so.*

A person carrying out a search can seize anything they have reasonable grounds for suspecting is a prohibited item (identified as such above, in other policies or in the school rules) or is evidence in relation to an offence.



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Where a person conducting a search finds alcohol, fireworks, tobacco or cigarette papers they must refer these to a member of SLT who will log receipt of it and decide whether to retain or dispose of them as they think appropriate but this should not include returning them to the pupil.

Where they find controlled drugs, these must be delivered to the police as soon as possible unless there is a good reason not to do so – in which case the drugs must be disposed of.

Where they find 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 good order and discipline. This would include, for example, so called 'legal highs'. These should be passed on to a member of SLT.

Where staff suspect a substance may be controlled they should treat them as controlled drugs as outlined above.

Where they find stolen items, these must be delivered to the police unless there is a good reason not to do so – in which case the stolen item should be returned to the owner. These stolen items may be retained or disposed of if returning them to their owner is not practicable.

Where they find a pornographic image, they must refer these to a member of SLT who will log receipt of it and decide whether to dispose of the image or if it constitutes a specified offence (i.e. it is extreme or child pornography) it must be delivered to the police as soon as reasonably practicable. Images found on a mobile phone or other electronic device can be deleted unless it is necessary to pass them to the police. (Actions should be informed by good safeguarding practice. See also the section below 'statutory guidance for dealing with electronic devices'.)

Any weapons or items which are evidence of an offence must be passed to the police as soon as possible.

It is up to SLT to decide whether there is good reason not to deliver stolen items or controlled drugs to the police. In determining what is a 'good reason' for not delivering controlled drugs or stolen items to the police the member of staff must have regard to the guidance issued by the Secretary of State:

1. In determining what is a 'good reason', the SLT member should take into account all relevant circumstances and use their professional judgement to determine whether they can safely dispose of a seized article.
2. Where staff are unsure as to the legal status of a substance and have reason to believe it may be a controlled drug they should treat it as such.
3. With regard to stolen items, it would not be reasonable or desirable to involve the police in dealing with low value items such as pencil cases. However, school staff may judge it appropriate to contact the police if the items are valuable (iPods, laptops) or illegal (alcohol/fireworks).
4. Schools can dispose of alcohol as they think appropriate but this does not include returning it to the pupil.

All members of staff involved in a search should record their involvement including why and how the search was carried out on a blue behaviour incident form and hand to a member of SLT, along with the confiscated item/s if appropriate.

### **Managing Confiscated Items**

Schools' general power to discipline, as set out in Section 91 of the Education and Inspections Act 2006, enables a member of staff to confiscate, retain or dispose of a pupil's property as a disciplinary penalty, where reasonable to do so.



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A member of staff may use their discretion to confiscate any item found as a result of a search so long as it is reasonable in the circumstances. In most instances confiscated items will be kept in the classroom by the class teacher unless it is one of the items listed above, or if there was any other reason that to keep the item in the classroom would be impractical. All reasonable steps will be taken to ensure that storage arrangements are secure but the school accepts no liability for confiscated items that children should not have brought into school. Confiscated items can be collected by the child or their parent/carer at the end of the school day. However, there are instances when the school will choose not to return an item to a pupil:

- Any item of an unlawful or hazardous nature;
- Any item of no value such as an inappropriate message scrolled on a piece of paper.
- Where it is deemed more appropriate to hand the item over to a responsible adult.

Should the child/family choose not to collect the item, it will be disposed of at the end of each week (e.g. sweets)/half term (e.g. jewellery) depending upon the item in question.

As described above, where the item is prohibited according to law, it must be passed to the Headteacher / Deputy Headteacher, who will log receipt of it. The item may then be destroyed at the reasonable discretion of the Headteacher / Deputy Headteacher. However, where any article is thought to be illegal it must be passed to the police.

Section 94 of the Education and Inspections Act 2006 protects staff against liability for damage or loss to items that are retained for any period or disposed of, providing the seizure can be considered reasonable and proportionate, and reasonable care was taken of the items.

### **Statutory guidance for dealing with electronic devices**

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 (Education Act 1966) 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 break the school rules.*

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.

### **Telling parents and dealing with complaints**

We are not required to inform parents before a search takes place or to seek their consent to search their child and there is no legal requirement for us to make or keep a record of a search. However, we recognise that it is good practice to do so if circumstances permit.

We will inform the individual pupil’s parents or guardians where alcohol, illegal drugs or potentially harmful substances are found, though again there is no legal requirement for us to do so.



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Complaints about screening or searching will be dealt with through our normal complaints procedure.

### **Equality Impact Assessment**

Under the Equality Act 2010 we have a duty not to discriminate against people on the basis of their age, disability, gender, gender identity, pregnancy or maternity, race, religion or belief and sexual orientation. We are committed to treating all members of the school community fairly and challenging negative attitudes about disability and accessibility and to developing a culture of awareness, tolerance and inclusion. This policy has been equality impact assessed and we believe that it is in line with the Equality Act 2010 as it is fair, it does not prioritise or disadvantage any member of the school community and it helps to promote equality and accessibility at our school. The curriculum is planned to be inclusive and meet the needs and interests of a full range of learners. Activities and resources will be differentiated and adult support used to ensure that children access the curriculum and make the best possible progress.

### **Safeguarding Commitment**

The school is committed to safeguarding and promoting the welfare of children, in line with Keeping Children Safe in Education 2018, and expects all staff and volunteers to share this commitment. We take seriously our duty of care to our pupils and staff which includes safeguarding them from the risk of being drawn into terrorism - this includes not just violent extremism but also non-violent extremism, which can create an atmosphere conducive to terrorism and can popularise views which terrorists exploit. We work closely with social care, the police, health services and other services to promote the welfare of children and protect them from harm. Radicalisation is recognised as a specific safeguarding issue and is addressed in line with the Government Prevent Strategy and The Counter-Terrorism and Security Act 2015.

### **Monitoring and Evaluation**

**Written:** July 2015

**Approved:** Sep 2015

**Reviewed:** March 2018

Next Review Date: March 2021

**Date of next review:** This policy will be monitored regularly to ensure that it reflects legislation at all times and will be evaluated in the light of any concerns that arise.