

# Ringway Primary School Confiscation Policy

*The Future starts here*

Our aim is to provide the foundations for a positive future for our pupils.

A future where pupils learn to stay safe, to understand the importance of a healthy lifestyle , and to enjoy all they do.

A future where they are money smart & make a positive & respectful contribution to their culturally diverse community - at a local, national & global level.

A future where they aspire to be the best they can be & achieve their full potential.

Created .....

Signed C of Gov.....

Headteacher.....

# **Ringway Primary School**

## **Screening, Searching and Confiscation Policy**

### **Summer 2013**

At Ringway Primary School we strive to create an environment in which both children and adults feel happy, safe, secure and valued.

#### **Aims of the Policy**

The aims of this Screening, Searching and Confiscation Policy are to:

- Provide clarification on the use of Screening, Searching and Confiscation
- To enable staff to feel more informed and to present a consistent approach to Screening, Searching and Confiscation
- To make clear the responsibilities of Headteachers, senior staff and governing bodies in respect of this power.

This policy is drawn from advice contained in the document 'Screening, Searching and Confiscation' - Advice for headteachers, staff and governing bodies' issued 2011 by the Department for Education (see appendix).

#### **What Legislation does this policy relate to?**

This policy relates to:

- Education Act 1996
- Education and Inspections Act 2006
- Health and Safety at Work Act etc. 1974

#### **What the law states**

- School staff can search a pupil for any item banned under the school rules, if the pupil agrees.
- Headteachers 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 knives or weapons, alcohol, illegal drugs and stolen items.**

□ School staff can seize any banned or prohibited item found as a result of a search, or which they consider harmful or detrimental to school discipline.

## **Physical searches**

Although legislation allows staff - within a range of safeguards - to search pupils without consent, the policy at Ringway is **not** to carry out physical searches.

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, no attempt should be made to take the item from the pupil. 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 then parents / carers will be 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.

**Mobile phones are banned items and can be confiscated- they will be kept in the school safe until a parent comes to collect them.**

In any situation where a pupil is suspected of having something illegal in their possession and where they have been asked to empty their pockets, parents / carers must be contacted, regardless of whether the result any suspect item was discovered.

## **Searching possessions**

'Possessions' constitute any goods over which the pupil has, or appears to have, control. This will include desks, lockers, bag and coats. **A pupil's possessions can only be searched in the presence of the pupil and another member of staff.** Under common law powers, schools are able to search for any item provided the pupil agrees.

In the case that a pupil does not consent to a search (or withdraws consent) then it is possible to conduct a search without consent, but only for the '**prohibited items**' listed above.

### **After the search : The power to seize and confiscate 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.

The member of staff may use their discretion to confiscate any item found as a result of a 'with consent' search so long as it is reasonable in the circumstances.

The item 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 a weapon it must be passed to the police.

Staff have a defence to any complaint or other action brought against them. The law protects members of staff from liability in any proceedings brought for any loss of, or damage to, any item they have confiscated, provided they acted lawfully.

#### ***Items found as a result of a 'without consent' search: what the law says***

A person carrying out a search can seize anything they have reasonable grounds for suspecting is a prohibited item (that is a weapon / knife, alcohol, illegal drugs or stolen items) or is evidence in relation to an offence. In the first instance any seized item should be passed to the Headteacher / Deputy Headteacher to deal with as follows:

**Alcohol** may be retained as evidence then disposed of.

Where **controlled drugs** are found, 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.

**Other substances** which are not believed to be controlled drugs 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'. Where staff suspect a substance may be controlled they should treat it as controlled drugs as outlined above.

**Stolen items** 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.

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

It is up to the Headteacher / Deputy Headteacher to decide whether there is a good reason not to deliver stolen items or controlled drugs to the police. In all cases the Headteacher / Deputy Headteacher must have regard to the **Good Reason** guidance below issued by the Secretary of State.

### **Good Reason**

In determining what is a 'good reason', the Headteacher / Deputy Headteacher should take into account all relevant circumstances and use their professional judgment to determine whether they can safely dispose of a seized article.

Where Headteacher / Deputy Headteacher 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.

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, the Headteacher / Deputy Headteacher may judge it appropriate to contact the police if the items are valuable (mobile phone / mp3 players / laptops) or illegal (alcohol / fireworks).

Schools can dispose of alcohol as they think appropriate, but this does not include returning it to the pupil.

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

Schools are not required to inform parents before a search takes place or to seek their consent to search their child.

#### **What the law says:**

- There is no legal requirement to make or keep a record of a search.
- Schools should inform the individual pupil's parents or carers where alcohol, illegal drugs or potentially harmful substances are found, though there is no legal requirement to do so.
- Complaints about screening or searching should be dealt with through the normal school complaints procedure.

However, as previously stated, in any situation where a pupil is suspected of having something illegal in their possession and where they have been asked to empty their pockets or possessions, parents / carers must be contacted, regardless of whether the result any suspect item was discovered.