

# John Port Spencer Academy



## SEARCH AND CONFISCATION POLICY

### Safeguarding Team

Lead Designated Safeguarding Lead: Mr L Shepherd

Deputy Designated Safeguarding Lead: Mrs C Golaub

Safeguarding Officers (Mental Health Leads): Mr W Perry and Mrs V Davies

Safeguarding Officer (Anti-Bullying Lead): Miss A Southall

Designated Lead for Prevent: Mr N Collier

Designated Lead for Sixth Form: Mrs G Barnett

Designated Teacher(s) for Looked After Children: Mr S Thompson and Mrs C Golaub

Designated Link Governor for Safeguarding: Mrs E Twigg

### Other documents/policies referred to are:

John Port Spencer Academy's Child Protection and Safeguarding policy

John Port Spencer Academy's Sexting policy

John Port Spencer Academy's Drugs policy

John Port Spencer Academy's Physical Restraint policy

**Revised: August 2019**

**To be reviewed: December 2020 or before**

## Search and Confiscation Policy

This policy should be used alongside Academy policies relating to Safeguarding, Drugs, Sexting, the use of CCTV and Physical Restraint. It has been drawn up in line with guidance from the Department for Education.

In this policy the term “member of Academy staff” means any teacher who works at the Academy, and any other person who with the authority of the Principal has lawful control or charge of pupils for whom education is being provided at the Academy.

### Why conduct a search and what can be searched for?

The Principal and any member of staff authorised by the Principal may conduct a search where it is suspected that a student is in the possession of the following:

1. Knives or weapons, alcohol, illegal drugs and stolen items; and/or
2. Tobacco and cigarette papers, fireworks and pornographic images; and/or
3. 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 property; and/or
4. Any item banned by the Academy rules that has been identified in the rules as an item which may be searched for.
5. Academy staff can view CCTV footage in order to make a decision as to whether to conduct a search for an item. In doing so Academy staff must ensure they act in accordance with the Data Protection Act 1998.

### Who Can Search?

- Under normal circumstances and especially in the case of a search without the student's consent the search should be conducted by the Principal or staff authorised by the Principal so to do.
- The DfE guidance states that any member of staff can search a student who has given their consent. The good practice at John Port Spencer Academy is that the Principal or Designated Senior Officer for Safeguarding should be consulted prior to such a search taking place unless there is an urgent and immediate need for that search.
- The member of staff must be the same gender as the student being searched; and there must be a witness (also a staff member) and, if possible, they should be the same gender as the pupil being searched.
- There is a limited exception to this rule. The member of staff can carry out a search of a pupil of the opposite gender and without a witness present, but only where it is reasonably believed that 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.

### Where a search can be conducted

Searches without consent can only be carried out on the Academy premises or, if elsewhere, where the member of staff has lawful control or charge of the student, for example on Academy trips or in training settings. Searches should be carried out in a private and discreet place e.g. a senior leader's office to afford privacy and confidentiality to the student as well as to the process.

### What are the limits of a search?

- The person conducting the search may not require the student 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 student 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.

**Lockers and Desks**

- Under common law powers, Academies are able to search lockers and desks for any item provided the student agrees to this. Academies can also make it a condition of having a locker or desk that the pupil consents to have these searched for any item whether or not the student is present.
- If a student does not consent to a search (or withdraws consent having signed a consent form) then it is possible to conduct a search without consent but only for the “prohibited items” listed above.

**Searching a student without their consent**

- Where possible students should be encouraged to co-operate with a request to search by an invitation to show that she/he is not in possession of something that they should not have.
- The Principal or member of staff authorised by the Principal can search a student without consent where there are reasonable grounds for suspecting that a student is in possession of a prohibited item.

**Searching a student with their consent**

- There is no DfE recommendation that two persons of the same gender should be present where a student readily agrees to a search or a request to demonstrate that she/he is not in possession of something that should not be in the Academy. However, the Academy policy is that there should be two persons of the same gender unless the exceptional circumstances referred to previously apply.
- All of the restrictions regarding the limits and extent of a search still apply.

**The Use of Force**

- See the Academy policy on Physical Restraint. The governors advise against the use of anything other than the use of minimum force and only in exceptional circumstances.
- The DfE advise that members of staff can use such force as is reasonable given the circumstances when conducting a search for knives or weapons, alcohol, illegal drugs, stolen items, tobacco and cigarette papers, fireworks, pornographic images or articles that have been or could be used to commit an offence or cause harm. Such force cannot be used to search for items not described above that are banned under the Academy rules.

**Confiscation**

- Academy staff can seize any prohibited item found because of a search. They can also seize any item, however found, which they consider harmful or detrimental to Academy discipline.
- The Academy’s 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, retain and/or destroy any item found as a result of a ‘with consent’ search so long as it is reasonable in the circumstances. 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 against them for any loss of, or damage to, any item they have confiscated, provided they acted lawfully.

**Police Requests to Search**

- The Academy always meets its legal obligations to co-operate with the police with any criminal investigation. Should the police request that they search a student or students in the Academy this request, on official police headed notepaper or from the official police “PNN” email address and preferably from an officer of the rank of Inspector or above, must be forwarded to the Principal for consideration.

- Before agreeing to such a request, the Principal will base the decision on the necessity of the search taking place in the Academy rather than away from the Academy. The Principal will discuss the issue with the Chair of Governors unless a legitimate request from the police limits the number of persons who should know of the search in advance.
- The Academy will provide an appropriate adult (usually a member of the Senior Leadership Team or the Safeguarding Team) of the same gender as the student to be present during the search to assure that the wellbeing of that student is maintained.

**Telling parents and dealing with complaints**

- Schools and Academies are not required to inform parents before a search takes place or to seek their consent to search their child. Although it is not a requirement to inform parents, the Academy regards it as a common courtesy to make parents aware that a search has taken place.
- There is no legal requirement to make or keep a record of a search however, the Academy policy is that such a record should be kept in a student's file and logged by the Safeguarding Team.
- Schools and Academies should inform the individual pupil's parents or guardians 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 Academy complaints procedure.