Fair Ways School
Searching of Students or their Property Policy & Procedure

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Fair Ways Vision, Mission and Values

Our vision
To build a community that changes lives, makes a difference to society and leaves a legacy greater than ourselves and our contributions.

Our mission
To grow a compassionate, resilient, and trauma-informed community, that embraces learning, so that we improve the lives and outcomes of individuals.

Our values
Our values form the heart of the work we do, defined by Fair Ways people, for Fair Ways people. These are the values by which we operate, by which we are governed, and to which we are held accountable.

We therefore expect every individual within Fair Ways to *play their part*:

PROFESSIONAL	**A**CCEPTING	**R**EFLECTIVE	**T**RANSPARENT
· We do what we say we will. · We approach challenges with optimism and enthusiasm. · We don't judge, we notice. · We put the needs of the service before our own personal gains.	· We don't give up on people. · We value all individuals and are willing to challenge them. · We embrace each other's differences as much as our similarities. · We accept responsibility for our actions.	· We give feedback, we invite feedback, we listen to feedback. · We look inward before we look outward. · We learn as much from our mistakes as from our successes. · We listen to each other, learn from each other and grow together.	· We are always willing to explain why. · We have the courage to be open and honest. · We earn trust through our transparency. · We live by our values even when no-one is watching.

1 Introduction

1.1 Fair Ways School refers to the schools that Fair Ways operate, named as Fair Ways school, a school for SEMH students which is spread across two sites, one in Swanwick and one in Fareham. Fair Ways other school provision is GLADE School, that offers students with autism as a primary need, an educational placement, based in Totton and Eastleigh, Southampton.

1.2 Fair Ways School provisions are required to provide a safe and nurturing environment for Students at all times. In addition to this, there is a need to ensure that Students are protected from the opportunity to supply or keep prohibited or illegal items which may cause harm.

1.3 If members of staff have reasonable suspicion that a student is concealing prohibited items, including illicit substances and alcohol, or where there are reasonable grounds for believing that there is a risk to the Student or another Student's safety or well-being, a search can be deemed necessary to ensure the safeguarding of all Students.

1.4 The searching of a student or their property is a delicate procedure that should be managed and carried out with the highest professional standards and integrity at all times. The following guidelines are recommended to facilitate the highest possible attention being paid to the dignity and welfare of Students during occasions when it is deemed necessary to search a student or their property.

1.5 This policy has been written with reference to the Human Rights Act (1998), and with regard to the wider legislative and regulatory frameworks governing Fair Ways' services.

1.6 Specific guidance in relation to schools was released by the Department for Education in January 2018, and this should inform any decision to carry out a search carried out on school premises: Searching, screening and confiscation advice for head teachers, school members of staff and governing bodies: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/674416/Searching_screening_and_confiscation.pdf

1.7 Ensuring school members of staff and students feel safe and secure is vital to establishing calm and supportive environments conducive to learning. Using searching, screening and confiscation powers appropriately is an important way to ensure students and members of staff welfare is protected and helps schools establish an environment where everyone is safe.

2 Policy and Procedure Principles

2.1 This policy should be based on clear principles as follows:

2.1.1 The intention is to create and maintain a school environment in which a supportive and effective education may take place whilst ensuring the security of the premises and the safety of Students, members of staff and the public. It is important that members of staff are aware of whether any search is necessary, justified and the least restrictive option. Due consideration has been given to legislative and regulatory requirements, in particular those outlined by Ofsted.

2.1.2 In all cases, seeking the consent of the student should be attempted before a search begins. If consent is given, the search should be carried out with due regard for the dignity of the student and the need to ensure maximum privacy. The student must be given every opportunity to discuss the situation and to hand over any items before a search is conducted if there is a "one-off" concern. If it has been decided to conduct a search on school site and the student refuses the search, transport will be contacted to take the student home. If the search is taking place at the student's home and they refuse the search, members of staff will allow the student a 15-minute processing time and attempt to conduct the search again. If the student still refuses, the members of staff will leave the student at home and return to school.

2.1.3 Consent obtained by means of a threat, intimidation or inducement is likely to render the search illegal. Any student whose possessions are to be searched must be informed that they do not have to consent. If consent is not given, then the member of members of staff will need to consult with SLT. If consent is not given, then the student will be returned home or left at home as detailed in 2.1.2. Any decision to return the student home or to leave the student in their home must have permission from the school Senior Leadership Team (SLT) who will then inform all network parties. Parents/carers must be informed immediately.

2.1.4 Article 8, of the European Convention on Human Rights requires public authorities to respect a student's right to a private life. Members of staff should make conscious efforts to respect the privacy of Students while maintaining safety.

2.1.5 All searches must be appropriately recorded, including the reasons for the search, efforts to seek the student's consent, any risk assessment and management oversight of the decision to undertake a search.

3 Searching principles

3.1 Searching can play a critical role in ensuring that schools are safe environments for all students and members of staff. It is a vital measure to safeguard and promote members of staff and student welfare, and to maintain high standards of behaviour through which students can learn and thrive.

3.2 Headteachers and members of staff they authorise have a statutory power to search a student or their possessions where they have reasonable grounds to suspect that the student may have a prohibited item listed in paragraph 3.3 or any other item that the school rules identify as an item which may be searched for.

3.3 The list of prohibited items is:

- knives and weapons
- alcohol
- illegal drugs
- stolen items
- any article that the member of members of staff reasonably suspects has been, or is likely to be used:
    - to commit an offence, or
    - to cause injury to, or damage to a student or members of staff member or the property of; any Student or members of staff member (including the student).
- fireworks
- pornographic images.

3.4 Under common law, school members of staff have the power to search a student for any item if the student agrees. The member of members of staff should ensure the student understands the reason for the search and how it will be conducted so that their agreement is informed.

3.5 Being in possession of a prohibited item – especially knives, weapons, illegal drugs or stolen items – may mean that the student is involved, or at risk of being involved, in anti-social or criminal behaviour including gang involvement, and in some cases may be involved in child criminal exploitation. A search may play a vital role in identifying Students who may benefit from early help or a referral to the local authority children's social care services. See Keeping children safe in education and Working together to safeguard children.

4 Definitions/Abbreviations

4.1 Search - a. To examine in order to find something lost or concealed. b. To examine the students' effects in order to find something lost or concealed.

4.2 Illicit Substance - Substances which are subject to drug prohibition laws. Most jurisdictions prohibit trade, except under license, of most types of drugs by the Misuse of Drugs Act 1971.

4.3 Contraband - goods or merchandise whose importation, exportation or possession is forbidden.

4.4 Drug paraphernalia - any equipment, product, accessory, or material that is modified for making, using, or concealing drugs, typically for recreational purpose.

4.5 Reasonable Suspicion - Legal Dictionary defines 'reasonable suspicion' as: "an objectively justifiable suspicion that is based on specific facts or circumstances and that justifies stopping and sometimes searching a student thought to be involved in a criminal activity at the time".

4.6 The Mental Capacity Act 2005 - Provides a statutory framework to empower and protect people who are not able to make their own decisions. A key principle of the law is that every adult (16 +) has the right to make their own decisions and is assumed to have capacity to do so unless it is proven otherwise.

6 Search of the Student

6.1 In certain circumstances, e.g. concealed prohibited items, it may be necessary to complete a search of the student.

6.2 Consent must always be sought before a search of the student is undertaken, and guidance should be sought as outlined in 2.1.3 if consent is not given.

6.3 Searching of the student is permitted in so far as the search of '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. This includes hats, shoes, boots, gloves and scarves, and searching of pockets. Under no circumstances are members of staff permitted to carry out an intimate search. The search involves the following actions as required:

- Removal of a hat
- Visual checking of the waistband
- Visual checking of the sock band
- Visual checking of cuffs
- Pockets turned out.
- Bag turned out.

At no point does a members of staff member lay hands on the student, not even to support them in showing of the above.

In addition to the search detailed above, a member of SLT can , if deemed necessary, use a handheld electronic wand to detect for any hidden items. The wand does not make contact with the student and is held at least 15cm away from the student. If the wand is used, this will also be logged.

6.4 The member of members of staff undertaking a search of the student ideally should be the same sex as the student and another member of members of staff should act as a witness. However, a search can be carried out by a member of members of staff who is of the opposite sex to the student and without a witness where the members of staff member reasonably believes that there is a risk of serious harm to a student if such a search is not carried out immediately and it is not reasonably practicable to call another member of members of staff. In such cases, members of staff should consider the increased expectation of privacy for the student.

6.5 The members of staff may use a metal detector to assist with the search.
(DfE Searching, Screening and Confiscation Advice for schools July 2022)

7 Search on return from community access

7.1 Reasons to implement a search of Students return from community access or MISPER, if there are concerns of them engaging in risk taking behaviours or for any Student following a risk assessment, that there is reasonable suspicion, that the student may be concealing something harmful or other contraband.

8 Storage of property taken from Students

8.1 If medicines are taken from the student, they should be dealt with in accordance with the current school medication policy and stored in the medication cabinet/designated space in the identified area of the school.

8.2 In the event of prohibited and restricted items being taken, they must be stored in a secure place and SLT informed and a decision to be made on how to dispose of these. This also covers the storage of illicit substances, drug paraphernalia and offensive weapons.

9 Reporting

9.1 Where members of staff have conducted searches of a student or their belongings, whether consensual or not, it is important that that the school maintains appropriate records.

9.2 All searches must be recorded in the Student's ClearCare Record of search conducted form detailing the reason for the search and outcome. Where a student has refused, the record must also state the reason for refusal including any relevant information regarding this.

9.3 The Head Teacher/SLT member in charge is to inform the Executive Head of all searches completed and their outcome as soon as possible.

10 Complaints

10.1 A student has the right to raise a formal complaint following a search. Students need to be made aware of this following the search and informed of the process for doing so. Any complaints should be forwarded to HR and the Safeguarding Lead as per the Complaints Policy [DOC REF OR86] and Whistleblowing Policy and Procedure [DOC REF OR35]

11 Associated Documentation & Legislation

- Complaints Policy [DOC REF OR86]
- Whistleblowing Policy [DOC REF OR35]
- Human Rights Act (1998)
- Article 8 of the European Convention on Human Rights
- Misuse of Drugs Act 1971
- Mental Capacity Act 2005