

**INVICTUS**

Education Trust

**SEARCH & CONFISCATION  
POLICY**

Approved by Board of Trustees  
30<sup>th</sup> September 2019

To be reviewed by Board of Trustees  
September 2022

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## **1. Introduction**

Invictus Education Trust fully recognises the responsibility it has under section 157 of the Education Act 2002 to have arrangements in place to safeguard and promote the welfare of children and section 93 Education and Inspections Act 2006

This Trust Policy applies to all students. Care and consideration will be given to the age of the child when following the guidance in this policy.

This policy also applies to all staff, volunteers and contractors, paid and unpaid, working in the trust including governors.

The Trust acknowledges its legal duty to make reasonable adjustments for disabled children and children with special educational needs (SEN). Equality Act 2010

## **2. Search with Consent**

School staff can search a student for any item if the student agrees. The Trust will consider the age of the child when considering consent.

It is enough for the teacher to ask the student to turn out his or her pockets or if the teacher can look in the student's bag or locker and for the student to agree. They do not need written consent from the child.

The Trust makes clear in its Behaviour Policy and in communications to parents and students' what items are banned.

If a member of staff suspects a student has a banned item in his/her possession, they can instruct the student to turn out his or her pockets or bag and if the student refuses, the teacher can apply an appropriate punishment as set out in the Trust's Behaviour Policy.

A student refusing to co-operate with such a search raises the same kind of issues as where a student refuses to stay in a detention or refuses to stop any other unacceptable behaviour when instructed by a member of staff – in such circumstances, schools can apply an appropriate sanction

## **3. Search Without Consent**

The Headteacher and senior staff authorised by the Headteacher have a statutory power to search students or their possessions, without consent, where they have reasonable grounds for suspecting that the student may have a prohibited item.

Prohibited items are:

- knives or weapons
- alcohol
- illegal drugs
- stolen items
- tobacco and cigarette papers / vapes
- fireworks
- pornographic images
- 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 the property of, any person (including the student)

The staff member conducting the search must be the same sex as the student being searched; and there must be a witness (also a staff member) and, if at all possible, they should be the same sex as the student being searched.

There is a limited exception to this rule. Staff can carry out a search of a student of the opposite sex without a witness present, but only where the staff member reasonably believes that there is an immediate 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.

#### **4. Establishing grounds for a search**

Teachers can only undertake a search without consent if they have reasonable grounds for suspecting that a student 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 students talking about the item or they might notice a student behaving in a way that causes them to be suspicious.

In the exceptional circumstances when it is necessary to conduct a search of a student of the opposite sex or in the absence of a witness, the member of staff conducting the search should bear in mind that a student's expectation of privacy increases as they get older.

The powers allow school staff to search regardless of whether the student is found after the search to have that item. This includes circumstances where staff suspect a student of having items such as illegal drugs or stolen property which are later found not to be illegal or stolen.

School staff can view CCTV footage in order to determine as to whether to conduct a search for an item.

Searches without consent can only be carried out on the school premises or, if elsewhere, where the member of staff has lawful control or charge of the student, for example on school trips, after school activities, or in training settings.

Where possible a private room or area should be used to carry out the search of the student. If using a private room another member of staff should also be in attendance as a witness.

#### **5. Confiscation**

School staff can seize 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.

When deciding what to do with the confiscated items, staff will follow the guidelines set out in Searching, Screening and Confiscation: Advice for Headteachers, school staff and Governing Bodies DfE 2018

#### **6. 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 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 to go against the expectation in the Trust's Behaviour Policy.

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.

### **7. Guidance for Carrying Out A Search what the law says:**

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 student’s possessions can only be searched in the presence of the student 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.

### **8. Lockers and Desks**

Under common law powers, schools are able to search lockers and desks for any item provided the student agrees. Schools can also make it a condition of having a locker or desk that the student 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.

### **9. Use of force**

See Physical Restraint and Use of Reasonable Force Policy

### **10. Informing Parents**

There is no requirement for the school to inform parents before a search. Parents may be informed as part of the Trust’s Behaviour Policy

Parents will be informed if the matter is sufficiently serious or could be potentially harmful to the student or the school.

If a parent makes a complaint, the normal procedures for dealing with a complaint should be followed.

### **11. Record Keeping**

There is no legal requirement for the school to keep records of searches or confiscation. However, as part of our normal procedures any such event will be recorded on the student’s behaviour log on the school system.

### **12. Review of Policy**

This policy is reviewed every 3 years by Invictus Education Trust Board of Trustees. We will monitor the application and outcomes of this policy to ensure it is working effectively.

