



Sidcot
Live Adventurously

Policy Name: Search and Confiscation

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1. Introduction

1.1 Amongst other things, the Education Act 2011 provided schools with powers designed to help teachers maintain good discipline. As a result, teachers now have the power to search students for any items that have, or could be, used to cause harm or break the law, and for items banned by school rules, including alcohol, drugs and stolen property where there are reasonable grounds to do so. Therefore:

1.1.1 Any member of school staff can search a student for any item, including those banned under the school rules (which are codified in the Blue Book), providing s/he agrees.

1.1.2 The Headmaster and staff authorised by him, also have a statutory power (power provided by law) to search students or their possessions, without consent, where there are reasonable grounds to suspect the student has certain prohibited items. The items that can be searched for under this power include alcohol, illegal drugs, knives or weapons, tobacco and cigarette papers, fireworks or other explosive materials, pornographic images, stolen items and any article that a 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).

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

1.2 It is acknowledged that students, especially boarders, have a reasonable right to privacy. Searches will be undertaken in a sensitive manner and in accordance with the protocols defined below.

1.3 The School is active in its responsibilities under the Equality Act 2010 and will not discriminate on the basis of protected characteristics including race, colour, religion or belief, national, ethnic or social origin, gender, gender reassignment, sexual orientation, disability or special educational need.

2. Scope

2.1 This is a whole school policy – it applies to the Junior School and Senior School including boarding. It applies to searches undertaken on school grounds and on school trips.

2.2 It may be made available to parents upon request.

3. Aims

3.1 To set out clear guidelines to be applied by staff and understood by students and parents about the circumstances in which searches may be conducted;

3.2 To clarify the differences between searches with and without consent;

3.3 To specify what will happen to objects which are confiscated;

3.4 To advise of the interrelation between the search and confiscation policy, with the behaviour and exclusions policies.

4. Protocol for Conducting a Search with Consent

4.1 When needing to undertake a search, consent will be sought from the student in the first instance, under all usual circumstances. The student's age and understanding will be taken into account when deciding whether in fact they are able to give valid consent.

4.2 School staff can search students, when there are reasonable grounds to do so, with their consent for any item - including those which are banned under the school rules including e-cigarettes, vaporisers, legal highs and substances as banned in the anti-drugs, smoking and alcohol policy.

4.3 The School is not required to have formal written consent from the student for this type of search – it is enough for the member of staff to ask him/her to turn out his/her pockets or if they can look in a student's bag or locker and for him/her to agree. The member of staff will always have regard to the student's age and level of understanding when seeking consent.

4.4 If a member of staff suspects a student has a banned item in his/her possession, they can instruct him/her to turn out his/her pockets or bag and if the student refuses, then the member of staff should apply an appropriate punishment as set out in the School behaviour policy.

5. Protocol for Conducting a Search without Consent

5.1 Searches of students and their belongings may be conducted by the Headmaster or a member of staff authorised by him for "prohibited items" without consent. The following are "prohibited items" under Section 550Z (3) of the Education Act 1996 and Regulation 3 of the Schools (Specification and Disposal of Articles) Regulations 2012:

- 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 commit an offence, or
- To cause personal injury to, or damage to the property of, any person (including the student).

5.2 School staff can also search for any banned or prohibited items which they consider harmful / detrimental or disruptive to school.

6. Undertaking the Search without Consent

6.1 Except in the circumstances defined below searches without consent:

6.1.1 Will be carried out by two members of staff and by a staff member of the same gender as the student searched – subject to paragraph 6.2 below and

6.1.2 With a witness present who would usually be the same gender as the student, subject to paragraph 6.2 below.

6.2 However, notwithstanding paragraph 6.1, in the event that a staff member believes that serious harm will be caused to a person if the search is not carried out immediately, and in circumstances where it is not reasonably practicable to summon another member of staff, a search may be carried out by a member of the opposite sex and without another member of staff present. Such search will be carried out as sensitively as possible, bearing in mind the student's age and their expectation of privacy.

6.3 Staff authorised by the Headmaster to conduct searches without consent include the Deputy Head Pastoral and Deputy Head Academic and teaching members of SMT. When searches are conducted in one of the boarding houses it is likely that the second member of staff acting as witness will be the Housemaster/mistress; although this is not absolutely necessary and no prior or written authorisation is necessary.

6.4 If asked to help conduct a search, a member of staff can decline to undertake such a search and a replacement will be sought.

7. Establishing Grounds for a Search

7.1 The staff member must decide in each particular case what constitutes reasonable grounds for suspicion, and therefore whether there are grounds to undertake a search. Such grounds could include information from other students, or observations of a student's behaviour. Staff may question other students, or view CCTV footage to gather information.

7.2 If there are reasonable grounds for undertaking a search, it is irrelevant if the prohibited item that is confiscated, is of a different character to that being originally searched for.

8. Location of a Search

8.1 All searches including those without consent may be carried out on school premises or, elsewhere where staff have lawful charge of the student, for example on school trips in England, or in training settings.

8.2 If a school trip takes part outside of England, parents and student will be required to sign a form consenting to any search that is deemed necessary as the legal position is different, in all other countries, including those who are part of the United Kingdom

9. Extent of the Search – Clothes, Possessions, Desks and Lockers

9.1 A student's possessions may only be searched in the presence of the student and/or 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.

9.2 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.

9.3 The person conducting the search may not require a student to remove any clothing other than outer clothing.

9.4 Outer clothing means clothing that is not worn next to the skin or immediately over a garment that is being worn as underwear. 'Outer clothing' includes hats; shoes; boots; gloves and scarves.

9.5 'Possessions' means any items over which the student has, or appears to have, control. A search can include desks, lockers, files or bags and the papers therein contained.

10. Lockers and Desks

10.1 The School makes it a condition of use of a locker or desk on the premises that the student consents to these being searched, whether or not the student is present at the time of search.

10.2 If a student does not consent to a search of lockers or desks or of their persons (or withdraws consent) then it is possible to conduct a search without consent but only for the “prohibited items” listed above.

11. Searching Electronic Devices

11.1 If a staff member conducting a search finds an electronic device that is prohibited by the school rules or that they reasonably suspect has been, or is likely to be, used to commit an offence they may examine any data or files on the device where there is a good reason to do so, and may delete the material. In determining a ‘good reason’ to examine or erase the data or files the staff member should 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.

11.2 In cases where youth produced sexual imagery (sexting) is concerned staff will not as a matter of course view the images concerned. The decision to view imagery shall be based on the professional judgement of the DSL and the guidelines in the non-statutory guidance, “Sexting in Schools and Colleges and Safeguarding Young People.”

11.3 If staff discover material that constitutes an offence, for example extremist material or child pornography, they should not delete it but deliver it to the police as soon as possible. Staff must not continue to view the image or share it with others (for example by way of forwarding it).

11.4 Parental consent is not required to search through a student’s mobile phone if the student has given consent, or the device has been seized in a lawful ‘without consent’ search and is prohibited by the school rules, or is reasonably suspected of being, or being likely to be, used to commit an offence or cause personal injury or damage to property.

11.45 All school staff should be aware of behaviours linked to sexting, and the School’s approach reflecting in the child protection policy.

12. Use of Reasonable Force

12.1 Members of staff can use such force as is reasonable given the circumstances when conducting a search for items prohibited by law as listed in paragraph 5 including knives or weapons, alcohol, illegal drugs, stolen items. Please refer to the Reasonable Force and Physical Restraint Policy (5.7).

13. The Power to Seize and Confiscate Items

13.1 Pursuant to the Schools’ general power to discipline, as set out in Section 91 of the Education and Inspections Act 2006, staff may confiscate, retain or dispose of a student’s property as a disciplinary penalty, where it is reasonable to do so.

13.2 Staff can seize anything they have reasonable grounds for suspecting is a prohibited item as identified in paragraph 5, for example a weapon; alcohol; drugs or stolen items or may be evidence of an offence.

13.3 Staff will take the following action if they seize the items below:

If any of these items are seized they will not be returned to a student.

13.3.1 Alcohol may be disposed of properly;

13.3.2 Controlled drugs will be usually be delivered to the police. Exceptionally, in the Headmaster's discretion they may be disposed of by the Health Centre if appropriate;

13.3.3 Other substances which are detrimental to good order and discipline and / or those which are banned by the School's policies, but not believed to be controlled drugs, will be confiscated and destroyed. This includes so called 'legal highs' and body building products / supplements where the student is under 18. Where staff are unsure whether a substance is controlled or not, they should treat them as controlled drugs, as outlined above;

13.3.4 Tobacco and other related smoking paraphernalia including e-cigarettes, and vaporisers may be disposed of properly;

13.3.5 Fireworks may be retained or disposed of appropriately, including by way of gift.

13.3.6 Where an article that has been (or could be) used to commit an offence or to cause personal injury or damage to property is found it may be delivered to the police or returned to the owner. It may also be retained or disposed of.

13.3.7 Where stolen items are found, these must be delivered to the police or returned to the owner unless there is a good reason not to do so. Stolen items may be retained or disposed of where return is impractical. It would not be reasonable to involve the police in dealing with low value items. However, staff may judge it appropriate to contact the police where items are of high value.

13.3.8 Any weapons or items which are evidence of an offence must be passed to the police as soon as possible. In determining what is a 'good reason', the staff should take into account relevant circumstances and use their professional judgement. They should determine whether they themselves can safely dispose of a seized item.

13.3.9 Pornographic images will be dealt with according to policy 12.1 Digital Safety Policy.

13.3.10 Other items seized in accordance with this policy may be confiscated.

13.3.11 Parents may request the return of certain items. Each request will be considered on its merits.

13.3.12 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 reasonably.

13.3.13 Authorised electronic devices will be returned to the owner, with any offending material deleted, unless the material is of a suspected criminal nature, in which case the device will be delivered to the police.

13.3.14. Mobile Phones

Junior School pupils are not allowed to take mobile phones with them to school.

Senior school students are permitted to have their mobile phones in accordance with the rules of the Senior School Blue Book and the Mobile Phone Policy which is available on the School Website.

If a mobile phone is confiscated by staff for improper use it will be handed into the Heads' Office. For first offences it will be confiscated for one day, to be collected at 15.50. For second offences, students will be required to hand their phone in to the Heads' Office for three days (08.30 – 15.50). For third offences, students will be required to hand in their phones for five days and parents will be contacted by the Deputy Head Pastoral.

14. Sanctions

14.1 Any student who is found in possession of items which are prohibited by either law or the School's policies will be subject to sanctions in the behaviour policy and ultimately exclusion.

15. Involving Parents and Guardians, and Dealing with Complaints

15.1 The School is not required to inform parents before a search takes place or to seek their consent to search their child. When a parent signs the contract for their child's admission to the school, they agree that the Head may authorise such disciplinary or preventative action as he or she deems necessary.

15.2 Parents and guardians will be informed that a search has taken place and under usual circumstances (and in the absence of any direction by the police or other statutory agency), the nature of what has been seized, and may be consulted about how items may be destroyed.

15.3 Where necessary, unresolved complaints arising from searches or confiscation may be addressed through the School complaints procedure which is available on the School's website and in hard copy form.

16. Data Protection and Recording of Searches

16.1 In accordance with good practice; all searches will be recorded. School staff must ensure they act in accordance with the Data Protection Act 2018 and General Data Protection Regulation 2018 when conducting searches or acting on information gathered.

17. Review and monitoring of this policy

17.1 The implementation of this policy will be kept under by the Deputy Head Pastoral. The policy will be reviewed annually by the Deputy Head Pastoral and approved by the Pastoral Group.

18. References

- Education Act 2011
- Education and Inspections Act 2006
- Data Protection Act 2018

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- General Data Protection Act 2016
 - The Education (Independent School Standards) Regulations 2014
 - The Handbook for the Inspection of Schools – Commentary September 2020
 - The National Minimum Standards for Boarding Schools (effective from April 2015)
 - Statutory Framework for the Early Years Foundation Stage (effective from September 2014)
 - Keeping Children Safe in Education’, DfE, September 2020
 - ‘Working together to Safeguard Children’, DfE, 2018
 - Searching, screening and confiscation Dfe 2018
 - Sexting in Schools (January 2017)

19. Relevant Policies

- Blue Book Senior School
- Safeguarding and child protection (2.1)
- Educational Trips and visits (2.9)
- Behaviour Policies (5.1, 5.1a and 5.1b)
- Smoking Drugs and Alcohol Policy (5.6)
- Reasonable Force and Physical Restraint Policy (5.7)
- Digital Safety Policy (12.1)

20 Monitoring and Review

The Deputy Head Pastoral and her team monitor this policy in conjunction with the Pastoral Group. This policy is subject to annual review by the Pastoral Group.

21. Document Change History

Date of Change	Detail significant changes and any new legislation / guidance taken into account
8.10.2016	Policy adopted by Board. Revised policy refers to boarders’ reasonable expectation of privacy (1.2), compliance with the Equality Act (1.3); clarification of scope of policy (para 2); list of prohibited items (para 5.1), clarification of who should be present at a search (6.2); location of a search (8.2); cross reference to reasonable force policy (10.1), updated references in line with new guidance etc
21.04.2017	Inclusion of reference to body building products as banned substances. References updated.
31.05.2017	Para 12.3.3 Clarification that body building products will be seized where the student is under 18.
01.12.2018	Reviewed in line with DFE guidance Searching, screening and confiscation: advice for schools 2018

	<p>1.1.1 Any member of school staff can search a student for any item, including those banned under the school rules (which are codified in the Blue Book), providing s/he agrees</p> <p>Para 11 – detailed guidance around searches of electronic devices.</p> <p>13.3.13 Authorised electronic devices will be returned to the owner, with any offending material deleted, unless the material is of a suspected criminal nature, in which case the device will be delivered to the police.</p> <p>References updated</p>
30.11.2019	<p>Reviewed and adopted by Board.</p> <p>Additional Paragraph 11.2 In cases where youth produced sexual imagery (sexting) is concerned staff will not as a matter of course view the images concerned. The decision to view imagery shall be based on the professional judgement of the DSL and the guidelines in the non-statutory guidance, “Sexting in Schools and Colleges and Safeguarding Young People.”</p> <p>Policy will in future be reviewed by the Pastoral Group.</p>
05.11.2020	<p>Updated and reviewed by Pastoral Group.</p>