



POLICY ON SEARCHING STUDENTS AND/OR THEIR POSSESSIONS

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Other relevant policies and documents:

ICT and Cyberbullying policy
Mobile telephones and other devices
Search Record Form

Policy on Searching a Student and their Possessions

This policy is made available to parents and students, and the students are also made aware of the policy in discussion with pastoral staff.

Background

The Education Act 2011 gives school staff the power to search a student or their possessions if they believe them to be carrying any article which the staff member reasonably suspects (a) has been, or is likely to be, used to commit a criminal offence or (b) has caused or is liable to cause personal injury to, or damage the property of, any person or (c) is any other item which the school rules identify as an item for which a search may be made. Staff are given the power to search a student even if they are under the age of criminal responsibility, and likewise staff of the opposite sex may still search a student if they believe the risk is so great that serious harm would be caused if they waited to find a member of staff of the same sex as the student to be searched, and where it is not reasonably practicable to summon another member of staff.

Powers are also included under the Act for members of school staff to seize an item discovered as a result of the search (provided the item is one which could be used to commit a criminal offence, cause personal injury or damage or is otherwise identified by school rules).

Conducting Searches

Stopsley High School operates on the basis of trust and respect for the privacy of each individual. However, sometimes this trust may be breached and this necessitates the search of a student's possessions. Such circumstances may include:

- Suspicion of theft – see sheet
- Suspicion of possession of alcohol, cigarettes, illegal substances or items banned by the school rules
- Suspicion of an item which could be intended to cause harm e.g. potential weapons
- Suspicion of bullying, e.g. through sending an image or message using digital means or in writing

This list is not considered to be exhaustive.

- School staff can search a pupil for any item if the pupil agrees*.
- Headteachers and SLT/House Leaders 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 – see Appendix at the end of this document “What do you do if you suspect a student may be under the influence of 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).

- Headteachers and authorised staff can also search for any item banned by the school rules which has been identified in the rules as an item which may be searched for, ie fun snaps, fireworld.

* The ability to give consent may be influenced by the child's age or other factors.

All students will be considered innocent until such time as the circumstances prove otherwise or strongly imply on the balance of probability that he/she has committed a breach of any of the school rules or policies or any relevant national law.

Where there are reasonable grounds to suspect that a student is involved in a situation where a search can help clarify the situation, then a search of his/her belongings will be carried out. This will be done with or without the student's consent.

A student's possessions (which include bags, locker, mobile phone or other electronic device over which the student has or appears to have control) can only be searched in the presence of the student and two other members 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.

The student will be asked if there is anything in his/her possession that he/she knows not to be his/hers or that he/she should not have in his/he possession. This will be logged on SIMS.

A search without consent may be carried out for knives, weapons, alcohol, illegal drugs, stolen items, tobacco and cigarette papers, fireworks, pornographic images and any item identified in the School rules. It should also be noted that searches do not require consent of either the student or their parent when this concerns illegal items or those prohibited by the school rules, such as alcohol, cigarettes or when there is reason to believe there may be harmful images stored on an electronic device such as a mobile phone, computer or tablet. Furthermore School staff may access locked storage areas without consent and, if necessary, by forcible access if there is reasonable suspicion that illegal drugs, weapons or items which may be used to cause harm may be stored in that area.

Searching a Person

Members of staff may not carry out a physical search of a student or the clothes that he/she is wearing except in extreme circumstances. The student may be asked to remove any outer clothing such as a coat, hat, gloves or footwear and socks, and will be asked to empty his/her pockets, drawers or bags his/herself. If he/she refuses to hand over a suspected illegal substance or a weapon, he/she should be detained under close supervision while the police are called.

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.

Following a search

If an illegal item is found as a result of the search – such as drugs or a weapon – this will be handed to the police. Items which contravene the school rules will be confiscated and will be returned to the student's parent at an opportune moment, or may be disposed of as a disciplinary penalty where reasonable to do so, for example, in the case of alcohol, cigarettes or cigarettes papers, fireworks. These items should not be returned to the student (DfE, p11)

Stolen items may be returned to the owner as appropriate.

If the student's parents have been notified to the search, they will be notified as soon as possible after the search by the Head of House/Deputy Head of House as appropriate, irrespective of the outcome.

Recording the Search

A record will be made of the search and will include:

- The name of the student, date of the search
- The reason why the search was deemed necessary
- Those present during the search
- The outcome of the search, whether or not anything was found
- Future actions
- How and when the parents were informed and by whom

This is to be recorded on SIMS.

The law allows school to:

- Schools can require students to undergo screening by a walk-through or hand-held metal detector (arch or wand) even if they do not suspect them of having a weapon and without the consent of the students.
- Schools' statutory power to make rules on student behaviour** and their duty as an employer to manage the safety of staff, students and visitors*** enables them to impose a requirement that students undergo screening.

Also note:

- If a student refuses to be screened, the school may refuse to have the student on the premises. If appropriate, the Police may be called to conduct search. Health and safety legislation requires a school to be managed in a way which does not expose students or staff to risks to their health and safety and this would include making reasonable rules as a condition of admittance.
- If a student fails to comply, and the school does not let the student in, the school has not excluded the student and the student's absence should be treated as unauthorised. The student should comply with the rules and attend.

** Section 89 of the Education and Inspections Act 2006 for all maintained schools, PRUs and NMSS and the Education (Independent School Standards) (England) Regulations 2010 for academy schools and alternative provision academies

*** Section 3 of the Health and Safety at Work etc. Act 1974

Searching with Consent

- School staff can search students with their consent for any item.
- Schools are not required to have formal written consent from the student for this sort of search – 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.
- Schools should make clear in their school 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 school'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 disciplinary penalty.

Searching without Consent

- A search without consent can be conducted by a Head Teacher or a member of school staff and authorised by the Head Teacher/SLT, plus Home Teams. A search will be conducted in pairs, one of which must be the same sex as the student being searched; and there must be a witness (also a staff member) and, if possible, they should be the same sex as the student being searched.
- There is a limited exception to this rule. You can carry out a search of a student of the opposite sex to you and/or without a witness present, but only where you reasonably believe that there is a risk that serious harm will be caused to a person if you do not conduct the search immediately and where it is not reasonably practicable to summon another member of staff.

Authorising members of Staff

- A Head Teacher can require a member of the school's security staff to undertake a search.
- If a security guard or police officer, who is not a member of the school staff, searches a student, the person witnessing the search should ideally be a permanent member of the school staff, as they are more likely to know the student.

Location of a Search

- 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 in England or in training settings.

During the Search

Extent of the search – clothes, possessions, desks and lockers

What the law says:

The person conducting the search may not require the student to remove any clothing other than outer clothing (socks can be removed).

'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 (eg a police officer) can do.

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 after having signed a consent form) then it is possible to conduct a search without consent but only for "prohibited items".

After the Search

The power to seize and confiscate items – general

What the law allows:

Schools' general power to discipline, as circumscribed by Section 91 of the Education and Inspections Act 2006, enables a member of staff to confiscate, retain or dispose of a student's property as a disciplinary penalty, where reasonable to do so.

Also note:

The member of staff can 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 reasonably suspected to be an offensive weapon, it must be passed to the police.

Items found as a result of a 'without consent' search

Where they find stolen items, these must be delivered to the police as soon as reasonably practicable – but may be returned to the owner (or may be retained or disposed of if returning them to their owner is not practicable) if the person thinks that there is a good reason to do so.

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, school staff may judge it appropriate to contact the police if the items are valuable (iPods/laptops) or illegal (alcohol/fireworks).

Statutory Guidance for Dealing with Electronic Devices

Where the person conducting the search finds an electronic device that is prohibited by the school rules or that they reasonably suspects has been, or is likely to be, used to commit an offence or cause personal injury or damage to property, they may examine any data or files on the device

where there is a good reason to do so. They may also delete data or files if they think there is a good reason to do so, unless they are going to give the device to the police. This power applies to all schools and there is no need to have parental consent to search through a young person's mobile phone if it 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.

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.

There is no legal requirement to make or keep a record of a search. Stopsley High School will record all searches on SIMS (please see attached sheet).

Schools should inform the individual student'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 school complaints procedure.

What do you do if you suspect a student may be under the influence of drugs?

1. *Child smells/presents as under the influence.*
2. *Take the child to a room or office, please ensure this is not an office that can easily be looked into; try to find a room away from other students*
3. *Find at least one other member of staff, if possible.*
 - **One they are familiar with**
 - **Key worker**
 - **Safe adult**
 - **House team**

1. Try to establish if they are under the influence. Ask if they have taken anything? If you are still unsure, call Medical.

1. Conduct a search following the rules of the stop & search policy (Conducted by a familiar adult, where possible).

1. If the student refuses to be searched, call home & explain to the parent/carer that we will request police involvement if their child does not comply with the search.

1. Let the parent/guardian speak to the child, in your presence.

1. Request, can the parent/guardian come in, to help support the search.

1. Give take up time- no more than 40 minutes.

1. Complete search & record results on SIMS & the search log.

1. If the child is under the influence call home to request that they pick up their child & take them to their GP, as there is clearly something amiss so we need parents/carers to collect.

1. Call attendance & request a C is annotated on the students register.

1. Outcome to be discussed with **PWH, SM, JC & KJ**.

1. **Do not** ask the student to write a statement under the influence. Request that the parent/guardian completes this later in the day.

1. If the child refuses to be searched & the parent/guardian is unable to persuade them or assist with the search. Call 101 and ensure that the child remains with an adult until the Police arrive. If appropriate, call 999 to ensure a prompt response.

1. If the student leaves or walks off from the supervising adult, call their parent/carer again to explain the situation.

At this point we should be saying:

1. The parent/carer **must** come & collect their child
2. Send an adult to track them as a safeguarding provision
3. Notify a member of the Safeguarding team of the actions taken and the outcomes.

NAME		Form
Date of Search	Location of Search	
Reason for Search		
Names of Staff Present (at least 1 x member of SLT)		
Name of Parent/Carer Contacted Please specify if via telephone, text of email and by whom		
Pupil Consent Given for Search	Yes/No If no consent given, please specify action taken	
Police Involved	Yes/No If yes, please give name of officer and reason for presence	
Outcome of Search		