



Shrewsbury School

Conducting a Search and Confiscation Policy

At Shrewsbury, trust between pupils and staff is a core foundation underpinning the school's philosophy. Therefore, we would hope the need to conduct a search on whatever basis would be a rare one. Sadly, there will be occasions when there is a need to search a room, belongings or a person where there is a reason to believe that the pupil has prohibited items (please see below and the Pupil Behaviour Policy for a list) or items which infringe the school rules or, potentially, the law of the land.

Searching pupils

This policy has been drawn up in accordance with the DfE's guidance *Searching, screening and confiscation February 2014*. The key points in relation to conducting a search are below:

- School staff can search a pupil for any item if the pupil agrees. This can include, for example, looking in the pupil's bag and locker and requesting that they turn out their pockets. There is no requirement for the pupil to give a formal written consent for this. It is enough that a request is made and acceded to.
- The Headmaster and staff authorised by the Headmaster have a statutory power to search pupils or their possessions, without consent, where they have reasonable grounds for suspecting that the pupil may have a prohibited item. These items are:
 - 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,

- To cause personal injury to, or damage to the property of, any person (including the pupil)
 - The following items which are banned by the School;
 - Any substances intended to resemble drugs, legal drugs, performance enhancing drugs, anabolic steroids, glue or any other substance held for purposes of misuse.
- 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.

Schools' obligations under the European Convention on Human Rights (ECHR)

Under article 8 of the European Convention on Human Rights pupils have a right to respect for their private life. In the context of these particular powers, this means that pupils have the right to expect a reasonable level of personal privacy.

The right under Article 8 is not absolute, it can be interfered with but any interference with this right by a school (or any public body) must be justified and proportionate.

The powers to search in the Education Act 1996 are compatible with Article 8. A school exercising those powers lawfully should have no difficulty in demonstrating that it has also acted in accordance with Article 8.

Search of a pupil's person

If there are reasonable grounds for suspecting that a pupil is in possession of a prohibited item (as per the list previous) the Headmaster and all staff (as authorised by the Headmaster) have the statutory power to search. A search will only take place therefore when it is believed to be justified and proportionate.

A pupil will always be asked to provide information about a suspicion that may reduce the need for a search to be carried out. The best approach is to ask him/her, in the presence of a second adult witness, to turn out his pockets or bag. Where the search is being carried out without consent, the person carrying out the search must be the same sex as the pupil and if possible, the second adult witness should also be the same sex as the pupil. However, in urgent situations where there is a reasonable belief that there is a risk of serious harm if the search is not carried out immediately and it is not practicable to find the necessary staff available, staff may carry out a search of a pupil of the opposite sex and without a witness present. In these exceptional circumstances, the member of staff conducting the search should bear in mind that a pupil's expectation of privacy increases as they get older.

Although the law allows the use of reasonable force to remove outer clothing (clothing that is not worn next to the skin or immediately over underwear), where a pupil refuses to consent to the search, it is school policy that if the pupil refuses to co-operate, that the parents should be called. Staff should not touch the pupil forcibly. The only exception to this is if the member of staff has a reasonable belief that there is a risk of serious harm if the search is not carried out immediately when reasonable force may be used to conduct a search for any prohibited item.

Suspected possession of illegal drugs or weapons is a more serious matter. The member of staff should instead make every effort in the presence of a second adult witness to persuade the pupil to hand the drugs or weapons over to staff voluntarily. If the pupil refuses, and it is not appropriate to carry out a search without consent he should be told that the police will be called. The police may then conduct a personal search.

Personal/Intimate searches cannot be conducted by members of school staff. If intimate searches are considered to be necessary, they should be conducted by an authorised police officer.

Search of a pupil's personal property

If there is a suspicion that a pupil has a prohibited item in his / her possession, the member of staff may instruct the pupil to turn out his / her bag or pockets. If a pupil objects, the pupil should be made aware that the school might proceed with a search. However, prior to this in appropriate circumstances, staff should notify the HSM who will contact parents who may then persuade their son/daughter to give consent. The Deputy Head (Pastoral) should be contacted. If felt appropriate, the police may be contacted.

Where a search of a pupil's possessions without consent is necessary, the pupil must be present and the requirement as to witnesses as set out above applies. If the pupil cannot be contacted, for example if they have gone home for the weekend, this does not mean that staff can search his/her personal property. Instead, they should wait for the pupil to return so that his/her consent can be sought or to be present during a search without consent if appropriate. If the situation is urgent the Deputy Head (Pastoral) should be contacted.

Searching Electronic Devices

The school provides considerable education to pupils about the risks attached to the misuse of electronic devices with regard to the materials stored and their use. If a staff member reasonably suspects that an electronic device has been, or could be, used to cause harm, to disrupt teaching or break the school rules, they will confiscate the device.

If electronic devices are seized under the rules of confiscation (see below), staff are asked to contact the HSM and Deputy Head (Pastoral), or Senior DSL before they take any further action as detailed below. Staff can examine data or files on a mobile phone, computer or other electronic device found as part of a search if they think there is good reason for doing so. Clearly this could be used to gather evidence of cyberbullying or other abuse of technology. Again, if there is good reason for doing so, they may erase any data or files. Staff should not view material which they think may be indecent/ pornographic in nature.

If inappropriate material is found on the device, the Deputy Head (Pastoral) will decide whether to delete the material, retain it as evidence (of a criminal offence or

breach of School discipline) or whether the material is of such seriousness that it requires involvement of the police.

If pornography constituting a specified offence (i.e. child pornography or 'extreme pornography') is found, the Deputy Head (Pastoral) who is also a Deputy Designated Safeguarding Lead must be contacted in accordance with the School's Child Protection and Safeguarding Policy and Procedures and the material must be handed to the police.

Searches without consent can only be carried out on school premises, or where the pupil is in the care of the school, for example on school trips or in training settings. However, the powers apply only in England, therefore if school trips occur outside England, the school should require pupils to confirm in writing that they will consent to searching before the trip occurs.

Searches of school property

As a guiding principle the school should always seek consent from the pupil before initiating such a search. However, staff may search school property without consent such as pupil's lockers or desks if there are reasonable grounds for suspecting that a prohibited item is stored there. Where consent is denied pupils should be made aware that a search might proceed in accordance with the procedures set out above. Where it is not possible to request consent from the pupil because she / he is unavailable then the Deputy Head (Pastoral) should be informed and parents may be contacted.

Set out below is a checklist of factors the school should bear in mind before initiating a search.

- Is the item under search high risk?
- The extent and nature of the search should be proportionate to the value and 'risk factor' of the item sought. For example a search may well be undertaken where possession, supply or manufacture of illegal drugs is reasonably suspected or large sums of money are missing, but not if a speaker has gone missing from a boy's/girl's study.
- When the decision is reached that a search is appropriate the school should seek the pupil's consent. If consent is refused, the Housemaster/ Housemistress should contact the Deputy Head (Pastoral). Parents will be called where appropriate in an attempt to persuade the pupil to consent. Failing this, the police may be contacted.
- 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.

- A written record of all searches should be made, setting out the main details of the search such as date, time, location, people and the outcome itself. Parents should always be informed after a search has taken place.
- Any illegal items found as a result of the search should be handed to the Deputy Head (Pastoral) who will pass them on to the police.
- Any search, which involves forcible entry into school property, for example breaking into a secure locker, should not be undertaken without consultation with the Deputy Head (Pastoral).
- The school reserves the right to conduct a search of all school property without consent if it believes there is a significant threat to the welfare of the school as a whole.

Confiscation

As a result of a 'With Consent' search

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. Appropriate records should be kept whenever property is confiscated from a pupil in order for the school to defend its actions should the need arise. When an article is thought to be a weapon it must be passed to the police. The Deputy Head (Pastoral) should be informed where appropriate.

As a result of a 'Without Consent' search

In the case of a 'without consent' search, the staff member may seize anything that they have reasonable grounds for suspecting is a defined prohibited item (as stated previously). The Deputy Head (Pastoral) should be informed where appropriate.

Any confiscated items will be dealt with in accordance with the DfE guidance *Searching, screening and confiscation (February 2014)*. In particular:

- If alcohol is found, it may be retained or disposed of. The Deputy Head (Pastoral) should be informed.
- Any controlled drugs must be handed over to police as soon as possible unless there is good reason not to do so in which case the drugs must be disposed of. If there is any question about a substance being a controlled drug they should be treated as such. Other substances, such as 'legal highs' must be confiscated and handed over to the Deputy Head (Pastoral).
- If staff find stolen goods these must be delivered to the police unless there is good reason not to do so, in which case the item should either be returned

to the owner, or, if this is not practicable, the items should be retained or disposed of.

Appropriate records should again be kept.

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