

## SEARCHING and CONFISCATIONS POLICY

Tonbridge School has the duty to ‘safeguard and promote the welfare of children’ (National Minimum Standards for Boarding Schools). In exercising this duty, it will pay proper attention to the right of privacy of all boys but there will be occasions on which it is necessary to search the person, belongings or room of a boy and which may lead to certain items being confiscated. These instructions set out the circumstances in which such searches can be carried out and the means by which they should be done, and follow guidance set out in ‘*Screening, Searching and Confiscation: Advice for headteachers, school staff and governing bodies*’ (DfE, January 2018), and ‘*DfE and ACPO drug advice for schools*’.

### This Policy should be read in conjunction with the following School Policies:

- Safeguarding
- Prevent Duty at Tonbridge School
- Drugs
- Alcohol and Smoking
- Mobile Phone Use
- Behaviour Rewards and Sanctions
- Privacy Notice for Boys
- Physical Restraint
- Guidance about the use of Supplements
- Trips and Educational Visits
- The Memoranda

### Key points of the School’s approach under this guidance are:

- Staff can search a boy for any item if the boy agrees;
- Authorised School staff (**all staff at Tonbridge School are so authorised**) have a statutory power to search boys or their possessions, **without consent**, where they have reasonable grounds for suspecting that the boy may have **prohibited items** including:
  - knives or weapons;
  - alcohol;
  - illegal drugs;
  - stolen items;
  - tobacco related products (including e-cigarettes and associated products);
  - fireworks;
  - pornographic images;
  - material associated with hate speech or extremism;
  - any article that the member of staff reasonably suspects has been, or is likely to be:
    - used to commit an offence or is committing an offence, or
    - to cause personal injury to, or damage to the property of, any person (including the boy);
- Staff can seize any banned or prohibited item found as a result of a search or which they consider harmful or detrimental to School discipline;
- Staff may also confiscate, retain or dispose of a boy’s property as a disciplinary penalty, where reasonable to do so (see section 4 below);
- Boys have a right to expect a reasonable level of personal privacy and any search should, therefore, be justified and proportionate;
- This policy applies on authorised School trips where School rules are in force;
- Incident reports must be submitted to the Second Master and Deputy Head Pastoral about any such search, listing all the main details;
- The Housemaster, the Deputy Head Pastoral or the Second Master should always contact affected boys’ parents after any search regardless of the outcome.

## PROCEDURE FOR CARRYING OUT A SEARCH

**Staff may not carry out personal/intimate searches of a boy in any circumstances. These may only be carried out by a person with more extensive powers (e.g. a police officer).**

**Searches with Consent.** If a boy is suspected of carrying or possessing an **unauthorised item** (items banned by School rules but not 'prohibited items' as described in section I) he should be asked, ideally in the presence of a second adult witness, to turn out his pockets or his bag. If a boy refuses – and depending on the level of concern regarding what he may possess – his parents should be contacted to persuade him to co-operate or, alternatively, the boy can be disciplined as if he was in possession of the suspected items. Similarly, if there is concern that there is an **unauthorised item** in a boy's property in a locker, study or bedroom, then he should be asked for his consent for a search to take place. If the boy refuses, then his parents can be contacted as above.

For less serious items, the extent and nature of the search should be proportionate to the value of the item sought and the likelihood of the item being found. Great care must be taken to avoid persistent targeting of individuals where allegations of victimisation or discrimination might arise.

**Searches without Consent.** In nearly all circumstances, consent should be sought before a search is carried out.

In establishing the grounds for a search, teachers must have reasonable grounds for suspecting that a boy may have in his possession a **prohibited item**, listed in section I. The teacher must decide in each particular case what constitutes reasonable grounds for suspicion. For example, they may have heard other boys talking about the item or they might notice a boy behaving in a way that causes them to be suspicious. **Staff should always seek to discuss this with the Deputy Head Pastoral or Second Master in advance, if practicable.** A second adult witness should always be present at a search, and a **male** member of staff should always conduct a search without consent, with a male witness (where practicable).

The only exception is if 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 or to call the Deputy Head Pastoral or Second Master. In these circumstances only, a female member of staff can carry out a search of a boy, and any member of staff can search without an adult witness present.

**Searching a boy's person:** The boy should be asked, in the presence of an adult witness, to turn out his pockets or bag. If he refuses, the first step is to inform his parents to ask them to persuade him to co-operate. If this fails and possession of such items is still strongly suspected, then a search of the boy's outer clothes (once removed) or bag may still be conducted without the consent of the boy. Under no circumstances should staff touch the boy or carry out any search of clothing being worn, and the member of staff conducting the search may not require the boy to remove any clothing other than outer clothing (turning out of pockets or removal of outer clothing including coats, jumpers, hats, shoes, boots, gloves and scarves). **An intimate search (i.e. consisting of inner clothing) may only be conducted by a police officer.** If a member of staff has good cause to suspect that a prohibited item is concealed within a boy's inner clothing then the boy should be told that the police will be called, who are allowed to conduct a personal search if they believe that a crime has been committed.

**Searches of a Boy's Personal and School Property:** There may be circumstances in which staff wish to search a boy's personal property, such as a bag, locked box, desk, locker or room. Consent should usually be sought (see below for exceptions). If a boy does not consent to a search then it is possible to conduct a search without consent but only for the 'prohibited items' listed above. If the boy refuses consent, staff should notify parents to ask them to persuade their son to

give consent, although schools are not required to inform parents before a search takes place or to seek their consent to search their child. If the boy is away, then staff must await his return to obtain consent. Any such search must be witnessed by a second adult and the boy himself. At least one member of staff should be the same gender as the boy. Proper records should be kept.

**Searches of School property** should not be carried out in the absence of a boy, unless the circumstances are such (for instance the suspected presence of drugs or weapons) as to make such a search warranted. In such cases authorisation to carry out the search should be obtained from the Second Master or Deputy Head Pastoral. Forcible entry into locked property is only justified in extreme circumstances and would also need the authorisation of Second Master or Deputy Head Pastoral.

## **SCHOOL TRIPS**

The Memoranda states that School rules ‘apply in the holidays during any organised School activity’. There may, therefore, be occasion to carry out a search on a School trip. If this occasion arises, the adult in charge of the trip should make an effort to contact either the Second Master or Deputy Head Pastoral to obtain authorisation. If this proves impossible and the circumstances are such as to make a search necessary, the adult in charge is empowered to carry out such a search, following all the above procedures. A second adult should act as a witness. Full notes must be kept and an incident report submitted in due course.

## **CONFISCATIONS**

The key points are:

- School staff can seize any banned or prohibited item found as a result of a search or which they consider harmful or detrimental to School discipline.
- School staff may also confiscate, retain or dispose of a boy’s property as a disciplinary penalty, where reasonable to do so.

School staff will have a defence to any claim made against them for loss or damage to confiscated items as long as the confiscation was on School premises or elsewhere where the boy was under School control, and where the confiscation was “reasonable”. “Reasonableness” is defined as any clear breach of School rules or where there is a clear concern about boys’ or others’ safety. The confiscation must also be proportionate to the offence.

The Memoranda contains a copy of the Mobile Phone Use Policy clearly setting out the School’s rules for mobile ‘phone use. Any boy who is in clear breach of these rules by using it in a lesson for example, or takes a photo of someone without their permission stands to have the phone confiscated. Similarly, it would also be reasonable to confiscate a phone or other electronic device where a boy was using it whilst crossing a road and is clearly oblivious to the danger it presents to himself.

A member of staff who confiscates a boy’s phone or other item during a School activity or lesson could:

- Return the item to the boy at the end of the activity and inform his Housemaster with a written explanation of the reason for confiscation. This would be appropriate if the use of the mobile phone was distracting, inadvertently dangerous or against the School rules.
- Return the item directly to the Housemaster with a written explanation. This would be appropriate if the use of the mobile phone in lessons or around School was for boys in the lower three years.
- Return to the Deputy Head Pastoral or Second Master with a written explanation. Returning to the latter would be appropriate in cases where, for example, a boy had repeatedly ignored requests to cease using the device, or if there was concern that the device had been used to

cyberbully another boy, or if there was concern surrounding Youth Produced Sexual Imagery (sexting) or other inappropriate content.

Any member of staff who confiscates alcohol, tobacco or cigarette papers or fireworks should inform the Second Master. The School may retain the item or dispose of it. These items should NOT be returned to the boy.

Any member of staff who confiscates an item or substance which may be illegal or stolen, or which contravene School rules (this might include weapons, suspected illegal drugs, new psychoactive substances, previously called 'legal highs', vape pens, or cigarettes) should pass them on to the Second Master. In certain situations, these items may be passed onto the police for further investigation.

Confiscation may be accompanied by other disciplinary action to be determined by the staff member, Housemaster, Deputy Head Pastoral, Second Master or Headmaster, depending on the item(s) confiscated.

### **COMPLAINTS**

Any complaints about how a search or confiscation has been conducted will be dealt with under the School's Complaints Procedure.