



SEARCHING AND CONFISCATION OF PUPIL PROPERTY POLICY (YEARS 3 TO 13)

Introduction

In the general course of College life, given pupils' good conduct overall and taking into account the very positive relationships between pupils and staff, it is rarely necessary to search pupils or confiscate their property. There are, however, some occasions when this may be necessary. Ensuring that College staff and pupils feel safe and secure is vital to maintaining a calm and supportive environment conducive to learning, and high standards of behaviour through which pupils can learn and thrive.

Before conducting a search of a pupil, the College will consider its obligations under the European Convention on Human Rights. In accordance with Article 8, pupils have a right to respect for their private life and should expect a reasonable level of personal privacy. Therefore, any interference with this right by the College will be justified and proportionate, whilst recognising that the powers to search in the Education Act 1996 are compatible with Article 8.

Searching

The College has a statutory power to search a pupil or their possessions where there are reasonable grounds to suspect that the pupil may have:

- a prohibited item (see below); or
- any other item that the College considers to be detrimental to maintaining high standards of behaviour and a safe environment as set out in the Behaviour Policy (Years 7 to 13) (banned items).

The list of prohibited items for which a search may be made is as follows:

- knives and weapons;
- alcohol;
- illegal drugs;
- stolen items;
- 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 property of, any person (including the pupil)
- tobacco and cigarette papers;
- fireworks;
- pornographic images.

In accordance with the Behaviour Policy (Years 7 to 13), e-cigarettes and vapes are banned by the College.

Separately, under common law, the College has the power to search a pupil for any item if the pupil agrees. The relevant member of staff should ensure that the pupil understands the reason for the search and how it will be conducted so that their agreement is informed.

Being in possession of a prohibited item – especially knives, weapons, illegal drugs or stolen items – may mean that the pupil is involved, or at risk of being involved, in anti-social or criminal behaviour including gang involvement, and in some cases may be involved in child criminal exploitation. A search may play a vital role in identifying pupils who may benefit from early help or a referral to the local authority children's social care services (see the College's Safeguarding (Child Protection) Policy).

When exercising their powers, the College will consider the age and needs of pupils being searched or screened. This includes the individual needs or learning difficulties of pupils with special educational needs (SEN) and making reasonable adjustments that may be required where a pupil has a disability.

A review of CCTV footage may help staff to decide whether to conduct a search. The College's rules regarding the viewing of CCTV footage are set out in its CCTV Policy.

The role of authorised members of staff

Only the Senior Deputy and the Deputy Master Pastoral & Co-Curricular (who have been authorised by the Master), or a member of staff who is subsequently authorised by the Master, can carry out a search (e.g. Heads of School, the Assistant Head Safeguarding, the Assistant Head Pastoral & Co-Curricular, Heads of Year, Boarding Housemasters, or a member of staff in charge of an outing, expedition or sports fixture). Members of staff may refuse to conduct a search.

The Master has delegated to the Senior Deputy and the Deputy Master Pastoral & Co-Curricular to oversee the College's practice of searching to ensure that a culture of safe, proportionate and appropriate searching is maintained, which safeguards the welfare of all pupils and staff. They ensure that relevant staff understand their rights and the rights of the pupil who is being searched, and that these members of staff are appropriately trained in how lawfully and safely to search a pupil who is not co-operating. If not already aware, the Senior Deputy and/or the Deputy Master Pastoral & Co-Curricular should be informed without delay of: any searching incidents where the member of staff had reasonable grounds to suspect a pupil was in possession of a prohibited item (listed above) and/or if they believe that a search has revealed a safeguarding risk.

If the Senior Deputy or the Deputy Master Pastoral & Co-Curricular find evidence that a pupil is at risk of harm, they (or a Deputy Designated Safeguarding Lead) will make a referral to children's social care immediately. They will then consider the circumstances of the pupil who has been searched to assess the incident against potential wider safeguarding concerns.

Before searching

The Senior Deputy or the Deputy Master Pastoral & Co-Curricular should be informed if a member of staff has reasonable grounds for suspecting that the pupil is in possession of a prohibited or banned item (including if a theft has been reported), or if the pupil has agreed to being searched. For example, they may have heard other pupils talking about the item or they might notice a pupil behaving in a way that causes them to be suspicious. In these circumstances, a search can be considered.

The Senior Deputy, the Deputy Master Pastoral & Co-Curricular, or the member of staff authorised to conduct the search, should make an assessment of how urgent the need for a search is, and consider the risk to other pupils and staff.

Before any search takes place, the member of staff conducting the search will explain to the pupil why they are being searched, how and where the search is going to take place and give them the opportunity to ask any questions.

The member of staff conducting the search will always seek the co-operation of the pupil before conducting a search. Where possible, the search will be conducted in the form of requests rather than instructions. The member of staff conducting the search should ask the pupil to turn out his pockets, show the contents of a drawer or bag, or show the contents of their room or their car.

If the pupil is not willing to co-operate with the search, the member of staff carrying this out will consider why this is. Reasons might include that the pupil:

- is in possession of a prohibited item;
- does not understand the instruction;
- is unaware of what a search may involve; or
- has had a previous distressing experience of being searched.

If a pupil continues to refuse to co-operate, the member of staff conducting the search may apply a disciplinary sanction in accordance with the Behaviour Policy (Years 7 to 13), ensuring that they are responding to misbehaviour consistently and fairly.

If the member of staff conducting the search still considers a search to be necessary, but is not required urgently, the pupil should be supervised and kept away from other pupils.

If the pupil still refuses to co-operate, the member of staff should assess whether it is appropriate to use reasonable force to conduct the search. Such force can be used as is reasonable to search for prohibited (but not banned) items.

The decision to use reasonable force will be made on a case-by-case basis on in accordance with the College's Reasonable Force Policy. The member of staff will consider whether conducting the search will

prevent the pupil from harming themselves or others, damaging property, or from causing disorder. The use of reasonable force will differ depending on whether the member of staff conducting the search is searching for possessions or the pupil themselves.

During a search

Where

An appropriate location for the search will be found. Where possible, this should be away from other pupils. The search must only take place on College premises or where the member of staff conducting the search has lawful control or charge of the pupil, for example on an outing, expedition or sports fixture.

Who

The law states that the member of staff conducting the search must be of the same sex as the pupil being searched. There must be another member of staff present as a witness to the search.

There is a limited exception to this rule. This is that a member of staff can search a pupil of the opposite sex and/or without a witness present only:

- if the member of staff conducting the search reasonably believes that there is risk that serious harm will be caused to a person if the search is not carried out as a matter of urgency; and
- in the time available, it is not reasonably practicable for the search to be carried out by a member of staff who is same sex as the pupil, or it is not reasonably practicable for the search to be carried out in the presence of another member of staff.

When a member of staff conducts a search without a witness, they should immediately report this to the Senior Deputy or the Deputy Master Pastoral & Co-Curricular, and ensure a record of the search is kept.

Extent of the search

A search may extend to a pupil's outer clothing, pockets, possessions, desk, locker, room or car. The pupil must not be asked to remove any clothing other than outer clothing.

- 'Outer clothing' means any item of clothing that is not worn wholly next to the skin or immediately over a garment that is being worn as underwear, as well as hats, shoes, boots or scarves. A member of staff conducting a search should be sensitive to whether such outer clothing is worn for religious reasons.
- 'Possessions' means any goods over which the pupil has or appears to have control. This includes desks, lockers and bags.

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.

It is a condition of having a locker or desk at the College that College pupils consent to have these searched for any item. A member of staff is able to search such other personal spaces for any item provided that the pupils agrees and if the pupil withdraws their agreement to search, a search may be conducted both for the prohibited items listed (listed above) and any items identified in the Behaviour Policy for which a search can be made (i.e. banned items).

The member of staff may use a metal detector to assist with the search.

A member of staff's power to search outlined above does not enable them to conduct a strip search.

Strip searching

A strip search is a search involving the removal of more than outer clothing. Strip searches on school premises can only be carried out by police officers under the Police and Criminal Evidence Act 1984 (PACE) Code A and in accordance with the Police and Criminal Evidence Act 1984 (PACE) Code C.

Before calling police into the College, the Senior Deputy or the Deputy Master Pastoral & Co-Curricular (or a Deputy Designated Safeguarding Lead) will assess and balance the risk of a potential strip search on the pupil's mental and physical wellbeing with the risk of not recovering the suspected item. They will consider whether introducing the potential for a strip search through police involvement is absolutely necessary, and will always ensure that other appropriate, less invasive approaches have been exhausted.

Once the police are on College premises, the decision on whether to conduct a strip search lies solely with them, and the role of College staff, in retaining their duty of care, is to advocate for the safety and wellbeing of the pupil(s) involved.

Unless there is an immediate risk of harm and where reasonably possible, the Senior Deputy or the Deputy Master Pastoral & Co-Curricular (or a Deputy Designated Safeguarding Lead) will inform a parent of the pupil suspected of concealing an item in advance of the search, even if the parent is not acting as the appropriate adult. Parents will always be informed by a staff member once a strip search has taken place. The Deputy Master Pastoral & Co-Curricular keeps a record of all searches that have been conducted on College premises, including strip searches, and monitors them for any trends that emerge.

Process the police must follow during a strip search

Except in cases of urgency where there is risk of serious harm to the pupil or others, whenever a strip search involves exposure of intimate body parts, there must be at least two people present other than the pupil, one of whom must be the appropriate adult. The role of the appropriate adult is to safeguard the rights, entitlements and welfare of children and vulnerable adults in police custody. This adult must not be a police officer or otherwise associated with the police. Examples of an appropriate adult include, but are not limited to: a parent, relative, social worker, teacher or, if the person is in the care of a local authority or voluntary organisation, a person representing that authority or organisation. An appropriate adult is not required when a pupil is eighteen or above.

If the pupil's parent would like to be the appropriate adult, the College will facilitate this where possible. Police officers conducting the search must be of the same sex as the pupil being searched. An appropriate adult not of the same sex as the pupil being searched may be present if specifically requested by the pupil. Otherwise, no-one of a different sex to the pupil being searched is permitted to be present, and the search must not be carried out in a location where the pupil could be seen by anyone else.

Except in urgent cases as above, a search of a pupil may take place without an appropriate adult, only if the pupil explicitly states in the presence of an appropriate adult that they do not want an appropriate adult to be present during the search, and the appropriate adult agrees. A record will be made of the pupil's decision and signed by the appropriate adult. The presence of more than two people, other than an appropriate adult, will be permitted only in exceptional circumstances.

Strip searching can be highly distressing for the pupil involved, as well as for staff and other pupils affected, especially if undertaken on College premises. PACE Code C states that a strip search may take place only if it is considered necessary to remove an item related to a criminal offence, and the officer reasonably considers the pupil might have concealed such an item. Strip searches should not be routinely carried out if there is no reason to consider that such items are concealed.

After-care following a strip search

Pupils will be given appropriate support, irrespective of whether the suspected item is found. If an item is found, this may be a police matter, but will always be accompanied by a safeguarding process handled by the College which gives attention to the pupil's wellbeing and involves the Senior Deputy or the Deputy Master Pastoral & Co-Curricular (or a Deputy Designated Safeguarding Lead).

Safeguarding will also be at the centre of support following a strip search in which the item is not found, both in the sense of supporting the pupil to deal with the experience of being searched, and regarding wider issues that may have informed the decision to conduct a strip search in the first place. In both cases, pupils should feel that they have an opportunity to express their views regarding the strip search and the events surrounding it. The Senior Deputy and the Deputy Master Pastoral & Co-Curricular will give particular consideration to any pupils who have been strip-searched more than once, and/or groups of pupils who are more likely to be subjected to strip searching with unusual frequency and consider preventative approaches.

After a search

Whether or not any items have been found as a result of any search, the Senior Deputy and Deputy Master Pastoral & Co-Curricular will consider whether the reasons for the search, the search itself, or the outcome of the search give cause to suspect that the pupil is suffering, or is likely to suffer harm, and/or whether any specific support is needed. Where this may be the case, the Senior Deputy or the Deputy Master Pastoral & Co-Curricular (or a Deputy Designated Safeguarding Lead) will consider if pastoral support, an early help intervention or a referral to children's social care is appropriate. If any prohibited items are found during the search, the member of staff who conducted the search will follow this policy in respect of guidance on confiscation.

If a pupil is found to be in possession of a prohibited or banned item, the pupil will normally be sanctioned in line with the College's behaviour policy to ensure consistency of approach.

Recording searches

Any search by a member of staff for a prohibited or banned item, and all searches conducted by police officers, including whether or not an item is found, will be recorded in CPOMS and on a central log maintained by the Deputy Master Pastoral & Co-Curricular. This will allow the Senior Deputy, the Deputy Master Pastoral & Co-Curricular, or a Deputy Designated Safeguarding Lead to identify possible risks and initiate a safeguarding response if required.

Informing parents

Parents will always be informed of any search for a prohibited or banned item that has taken place, and the outcome of the search as soon as is practicable. The College will inform the parents of what, if anything, has been confiscated and the resulting action that has been taken, including any sanctions applied.

Any complaints about searching, screening or confiscation will be dealt with through the College's normal complaints procedure.

Confiscation

Items found as a result of a search

The Senior Deputy, the Deputy Master Pastoral & Co-Curricular, or the member of staff authorised to carry out a search can confiscate any item that they have reasonable grounds for suspecting:

- poses a risk to staff or pupils;
- is prohibited or banned; or
- is evidence in relation to an offence.

Prohibited or illegal items

Controlled drugs must be delivered to the police as soon as possible unless there is a good reason not to do so. In these cases, the Senior Deputy or the Deputy Master Pastoral & Co-Curricular will safely dispose of the drugs. Legally, schools do not have to give the name of the pupil from whom drugs have been taken to the police. The College will consider this on a case-by-case basis.

In determining whether there is a good reason to dispose of controlled drugs, the Senior Deputy or Deputy Master Pastoral & Co-Curricular will take into account all relevant circumstances and use their professional judgement to determine whether they can safely dispose of the controlled drug. When they are unsure as to the legal status of a substance and have reason to believe it may be a controlled drug, they should treat

it as such. If they are still in doubt about the safe disposal of controlled drugs, they should deliver them to the police.

Other substances which are not believed to be controlled should also be delivered to the police, or disposed of as above, if the Senior Deputy or the Deputy Master Pastoral & Co-Curricular believes they could be harmful.

Where a member of staff conducting a search finds alcohol, tobacco, cigarette papers or fireworks, they may retain or dispose of them as they think appropriate but will not return them to the pupil.

If a member of staff finds a pornographic image, they may dispose of the image unless they have reasonable grounds to suspect that its possession constitutes a specified offence (i.e. it is extreme or an indecent image of a child) in which case it will be delivered to the police as soon as reasonably practicable. As outlined in the College's policy on the sharing of nudes and semi-nudes, members of staff will never intentionally view any indecent image of a child, or copy, print, share, store or save such images.

When stolen items are found, these will be delivered to the police as soon as reasonably practicable. However, if there is good reason to do so, the Senior Deputy or the Deputy Master Pastoral & Co-Curricular may also return the item to the owner, or retain or dispose of it, if returning them to their owner is not practicable. In determining whether there is a good reason to return the stolen item to its owner or retain or dispose of the item, the Senior Deputy or the Deputy Master Pastoral & Co-Curricular will take into account all relevant circumstances and use their professional judgement to determine whether they can safely dispose of the seized article, specifically:

- the value of the item (it would not be reasonable or desirable to involve the police in dealing with low-value items such as pencil cases, though the Senior Deputy or the Deputy Master Pastoral & Co-Curricular may judge it appropriate to contact the police if the items are valuable);
- whether the item is banned by the College;
- whether retaining or returning the item to the owner may place any person at risk of harm; and
- whether the item can be disposed of safely.

Any weapons or items which are evidence of a suspected offence will be passed to the police as soon as possible.

Items that have been (or are likely to be) used to commit an offence or to cause personal injury or damage to property will be delivered to the police as soon as reasonably practicable, returned to the owner, retained or disposed of. In deciding what to do with such an item, the Senior Deputy or the Deputy Master Pastoral & Co-Curricular will take into account all relevant circumstances and use their professional judgement to determine whether the item should be delivered to the police, retained, returned to the owner or disposed of, if it is safe to do so.

If the Senior Deputy or the Deputy Master Pastoral & Co-Curricular suspects that a confiscated item has been used to commit an offence or is evidence in relation to an offence, the item will be delivered to the police. The Senior Deputy or the Deputy Master Pastoral & Co-Curricular will use their judgement to decide to return, retain or dispose of any other items banned under College rules. In deciding what to do with such an item, the Senior Deputy or the Deputy Master Pastoral & Co-Curricular will take into account all relevant circumstances, specifically:

- the value of the item;
- whether it is appropriate to return the item to the pupil or parent; and
- whether the item is likely to continue to disrupt learning or the calm, safe and supportive environment of the College.

Electronic devices

Electronic devices, including mobile phones, can contain files or data which relate to an offence, or which may cause harm to another person. This includes, but is not limited to, indecent images of children, pornography, abusive messages, images or videos, or evidence relating to suspected criminal behaviour.

As with all prohibited items, the Senior Deputy or the Deputy Master Pastoral & Co-Curricular (or a Deputy Designated Safeguarding Lead) will first consider the appropriate safeguarding response if they find images, data or files on an electronic device that they reasonably suspect are likely to put a person at risk.

Staff may examine any data or files on an electronic device they have confiscated as a result of a search if there is good reason to do so.

If the member of staff conducting the search suspects that they may find an indecent image of a child (sometimes known as nude or semi-nude images), they will never intentionally view the image, and will never copy, print, share, store or save such images. When an incident might involve an indecent image of a child and/or video, the member of staff conducting the search will confiscate the device and avoid looking at it and refer the incident to the Deputy Master Pastoral and Co-Curricular as the most appropriate person to advise on the College's response.

If a member of staff conducting the search finds any image, data or file that they suspect might constitute a specified offence, then they must be delivered to the police as soon as is reasonably practicable.

In exceptional circumstances members of staff may dispose of the image or data if there is a good reason to do so. In determining whether there is a 'good reason' to examine the data or files, the member of staff conducting the search will reasonably suspect that the data or file on the device has been, or could be used, to cause harm, undermine the safe environment of the College and disrupt teaching, or be used to commit an offence.

In determining whether there is a 'good reason' to erase any data or files from the device, the member of staff conducting the search will consider whether the material found may constitute evidence relating to a suspected offence. In those instances, the data or files will not be deleted, and the device will be handed to the police as soon as it is reasonably practicable. If the data or files are not suspected to be evidence in relation to an offence, a member of staff conducting the search may delete the data or files if the continued existence of the data or file is likely to continue to cause harm to any person and the pupil and/or the parent refuses to delete the data or files themselves.

Confiscation as a disciplinary penalty

The general power of schools to discipline enables a member of staff to confiscate, retain or dispose of a pupil's property as a disciplinary penalty, where reasonable to do so.

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 lawfully.

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