

# Searching and Confiscation Policy

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## 1 Introduction

This policy is adapted from the Department for Education Screening, Searching and Confiscation Policy 2022 update. The DfE provides clear guidelines for schools and in particular it explains the use of the power to search students without consent. It also explains the powers schools have to seize and then confiscate items found during a search. It also takes into account the Schools' obligations under the European Convention on Human Rights (ECHR) and the powers to search in the Education Act of 1996.

## 2 Searching Key points

Worthing High School staff can search a student for any item if the student agrees, failure to agree to a search could result in an exclusion.

The Head of School and the Extended Leadership Team (ELT) 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
- stolen items
- tobacco, cigarette papers and electric smoking devices (vapes)
- 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).

The Head of School 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.

## 3 Confiscation

Worthing High 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.

## 4 Searching

### 4.1 Searching with consent

- Under common law, school staff have the power to search a student for any item if the student agrees. The member of staff should ensure the student understands the reason for the search and how it will be conducted so that their agreement is informed.
- Worthing High School staff can search students with their consent for any item.

- Formal written consent from the student is not required – the teacher will ask the student to turn out his or her pockets or to have a look in the students bag or locker.
- 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 will refer the student to a member of the leadership team who can apply an appropriate sanction.
- Possessions’ means any goods over which the student has or appears to have control – this includes lockers and bags.
- Worthing High School can search lockers for any item provided the student agrees. This is a condition of having a locker and all students sign a consent form when their locker is allocated.

## **4.2 Searching without consent:**

### **4.2.1 What the law says:**

- Students can be searched, if a member of staff has reasonable grounds for suspecting that a student is in possession of a prohibited item. For example, they may have heard other students talking about the item or they might notice a student behaving in a way that causes them to be suspicious.
- 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.

### **4.2.2 Staff procedure for searching:**

- You must be the same sex as the student being searched; and there must be a witness (also a staff member) and, if at all 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 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. Where it is practicable to summon a staff member of the same sex as the student and a witness, then the teachers wishing to conduct a search must do so.
- The person conducting the search may ask the student to remove any outer clothing. ‘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.
- Any prohibited item found during the search will be confiscated, retained or disposed of by the member of staff. In particular any alcohol/tobacco, electronic smoking devices (vapes) and cigarette papers will be disposed of and any weapons, controlled drugs or stolen items will be delivered to the police. Other substances which are not believed to be controlled

drugs will be confiscated where a teacher believes them to be harmful or detrimental to good order and discipline. This would include, for example, 'legal highs'.

- An appropriate location for the search should be found. Where possible, this should be away from other students. The search must only take place on the school premises or where the member of staff has lawful control or charge of the student, for example on a school trip.

## 5 Prohibited items & disposal guidance

- Knives or weapons,
- alcohol,
- illegal drugs,
- stolen items,
- tobacco,
- electric smoking devices(vapes) and cigarette papers,
- fireworks
- pornographic images;
- and 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 property; and any item banned by the school rules which has been identified in the rules as an item which may be searched for.

The search will be carried out by the Head of School or a member of the ELT. There is no requirement to provide authorisation in writing.

### 5.1 Statutory guidance on the disposal of controlled drugs and stolen items

It is up to teachers to decide whether there is a good reason not to deliver stolen items or controlled drugs to the police. In determining what is a "good reason" for not delivering controlled drugs or stolen items to the police the member of staff must have regard to the following guidance issued by the Secretary of State:

- **In determining what is a 'good reason' for not delivering controlled drugs or stolen items to the police, the member of staff should take into account all relevant circumstances and use their professional judgement to determine whether they can safely dispose of a seized article.**
- Where staff 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.
- 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 (iPads/laptops) or illegal (alcohol/fireworks).

### 5.2 Statutory guidance for dealing with electronic devices

- Where the person conducting the search finds an electronic device they may examine any data or files on the device if they think there is a good reason to do so. Following an examination, if the person has decided to return the device to

the owner, or to retain or dispose of it, they may erase any data or files, if they think there is a good reason to do so.

- The member of staff must have regard to the following guidance issued by the Secretary of State when determining what is a “good reason” for examining or erasing the contents of an electronic device:
- **In determining a ‘good reason’ to examine or erase the data or files the staff member must 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.**
- If inappropriate material is found on the device it is up to the teacher to decide whether they should delete that material, retain it as evidence (of a criminal offence or a breach of school discipline) or whether the material is of such seriousness that it requires the involvement of the police.

## 6 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. However if a student is searched at Worthing High School this will be recorded on SIMS.
- Schools should inform the individual student’s parents, carers or guardians where alcohol, illegal drugs or potentially harmful substances are found, though there is no legal requirement to do so.
- Complaints about searching should be dealt with through the normal school complaints procedure.

## 7 Guidelines for Head of School

- Only the Head of School, or a member of staff authorised by the Head of School, can carry out a search. The Head of School can authorise individual members of staff to search for specific items, or all items set out in the school's behaviour policy. For example, a member of staff may be authorised to search for stolen property and alcohol but not for weapons or drugs.
- The Head of School can require a member of the security staff to undertake a search. If a security guard, who is not a member of the school staff, searches a student, this guidance should be followed and the person witnessing the search should be a permanent member of the school staff. The Head of School may not require any other member of staff to undertake a search if they refuse.
- The Head of School should oversee the school’s practice of searching to ensure that a culture of safe, proportionate and appropriate searching is maintained, which safeguards the welfare of all students and staff with support from the designated safeguarding lead (or deputy).
- The Head of School should ensure that a sufficient number of staff are appropriately trained in how to lawfully and safely search a student who is not co-operating, so that these trained staff can support and advise other members of staff if this situation arises. However, it is vital that all staff understand their rights and the rights of the student who is being searched.

- The designated safeguarding lead (or deputy) should be informed of any searching incidents where the member of staff had reasonable grounds to suspect a student was in possession of a prohibited item as listed in paragraph 3. The staff member should also involve the designated safeguarding lead (or deputy) without delay if they believe that a search has revealed a safeguarding risk.
- If the designated safeguarding lead (or deputy) finds evidence that any child is at risk of harm, they should make a referral to children's social care services immediately (as set out in part 1 of 'Keeping children safe in education'). The designated safeguarding lead (or deputy) should then consider the circumstances of the student who has been searched to assess the incident against potential wider safeguarding concerns.

## **8 Training for School Staff**

When designating a member of staff to undertake searches under these powers, the Head of School should consider whether the member of staff requires any additional training to enable them to carry out their responsibilities.

## **9 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. While the decision to undertake the strip search itself and its conduct are police matters, school staff retain a duty of care to the student(s) involved and should advocate for student wellbeing at all times.

## **10 After a search**

- Whether or not any items have been found as a result of any search, schools should consider whether the reasons for the search, the search itself, or the outcome of the search give cause to suspect that the student is suffering, or is likely to suffer harm, and/or whether any specific support is needed. Where this may be the case, school staff should follow the school's child protection policy and speak to the designated safeguarding lead (or deputy) as set out in Part 1 of 'Keeping children safe in education'. They will consider if pastoral support, an early help intervention or a referral to children's social care is appropriate.
- If a student is found to be in possession of a prohibited item listed above, then the staff member should alert the designated safeguarding lead (or deputy) and the student should be sanctioned in line with the school's behaviour policy to ensure consistency of approach.