



SEARCHING A PUPIL POLICY

Whitgift School is committed to safeguarding the wellbeing of pupils and staff and, in line with current relevant legislation (including the government issued 'Searching, screening and confiscation' advice for headteachers, school staff and governing bodies February 2014), the School can search pupils for any item if the pupil agrees. The School has a statutory power to search pupils or their possessions, without consent, where they have reasonable grounds to suspect that the pupil may be in possession of a prohibited item. The Headmaster and, as authorised by the Headmaster, members of the Senior Management team, the Boarding Housemaster and Deputy Boarding Housemasters are authorised to search pupils, along with school's security staff as directed by the Headmaster or Senior staff, without their consent under the terms as laid out in this policy. Other members of staff can search pupils, with their consent, for any item.

Prohibited items:

- 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, or
- to cause personal injury to, or damage to the property of, any person (including the pupil).

The Headmaster and members of the Senior Management Team 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.

The School staff can seize and confiscate 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.

Screening

Currently the School does not expect pupils to undergo screening. However, the School reserves its right to require pupils 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 pupils. If a pupil refuses to be screened, the school may refuse to have the pupil on the premises.

Searching with consent

School staff can search pupils with their consent for any item. The School Rules outline specific items which are banned from the School site. Staff can instruct pupils to turn out their pockets or bag if they suspect they are holding a banned item. If the pupil refuses, the teacher can apply an appropriate punishment.

Searching without consent

- Staff can search when they have reasonable grounds to suspect that a pupil is in possession of a prohibited item.
- Staff must be the same gender as the pupil being searched and there must be a witness (also a staff member) and, if at all possible, they should be the same gender as the pupil being searched. There is a limited exception to this rule. Staff can carry out a search of a pupil of the opposite sex, and without a witness present, but this applies only where it is reasonable to believe that there is a risk that serious harm will be caused to a person if a search is not conducted immediately and where it is not reasonably practicable to summon another member of staff.
- School staff can view CCTV footage in order to make a decision as to whether to conduct a search for an item.
- 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 pupil, for example on school trips in England or in training settings. The powers only apply in England.

During the search

- The person conducting the search may not require the pupil to remove any clothing other than 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.
- 'Possessions' means any goods over which the pupil has or appears to have control – this includes 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.
- 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 (e.g. a police officer) can do.
- Under common law powers, schools are able to search lockers for any item provided the pupil agrees. The School have also made it a condition of having a locker that the pupil consents to have these searched for any item whether or not the pupil is present.
- If a pupil does not consent to a search or withdraws consent then it is possible to conduct a search without consent but only for the "prohibited items" listed above.
- Members of staff can use such force as is reasonable given the circumstances when conducting a search for knives or weapons, alcohol, illegal drugs, stolen items, tobacco and cigarette papers, fireworks, pornographic images or articles that have been or could be used to commit an offence or cause harm. Such force cannot be used to search for items banned under the School Rules.

After the search

- After a search has taken place, this must be reported to either the Headmaster, Second Master or Assistant Head.
- The Schools' general power to discipline, as set out in Section 91 of the Education and Inspections Act 2006, enables a member of staff to confiscate, retain or dispose of a pupil's property as a disciplinary penalty, where reasonable to do so.
- A person carrying out a search can seize anything they have reasonable grounds for suspecting is a prohibited item or is evidence in relation to an offence.
- 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. Please discuss all these situations with the relevant Head of Year, the Assistant Head or the Second Master who will decide on the best course of action.
- In all cases of searching without consent, any confiscation must be discussed with the Headmaster, Second Master or Assistant Head as to what is the best course of action regarding the items confiscated. Where the search is without consent then any alcohol, drugs (controlled or not eg legal highs), fireworks, tobacco, smoking paraphernalia, stolen items, pornographic images will be confiscated and not returned to the pupil. Where any article is thought to be a weapon, illegal drugs (even when unsure regarding the legality of the drugs found) or items which are evidence of an offence, which includes stealing when appropriate, it will be passed to the police as soon as possible.
- Where pornographic images are involved, these will be discussed with the Designated Safeguarding Lead and a decision will be made as to whether to delete the images or refer them to the police. If they are extreme or child pornography, they will be referred to the police. Images found on a mobile phone or other electronic device can be deleted unless it is necessary to pass them to the police.
- Where a member of staff finds an item which is banned under the School Rules, they should take into account all relevant circumstances and use their professional judgement to decide whether to return it to its owner, retain it or dispose of it. Most likely they should give the item to the Head of Year, Assistant Head or Second Master who will decide on the best course of action.
- 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. 'Good reason' to examine or erase the data or files must be where the staff member reasonably suspects 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. 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.
- Staff have a defence to any complaint or other action brought against them. 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.
- If inappropriate material is found on the device, it is up to the member of staff 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. Please discuss these situations with the Head of Year, Assistant Head or Second Master who will decide on the best course of action

- The School is 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 but it is best practice to keep a record. A record should be put on the boy's file and the relevant Head of Year informed.
- Any search 'without consent' should be relayed to the Assistant Head or Second Master who will then record the incident.
- The Second Master, or senior staff, will inform the individual pupil's parents or guardians where alcohol, illegal drugs or potentially harmful substances are found.
- Complaints about screening or searching should be dealt with through the normal School Complaints Procedure.

Reviewed by The Second Master and The Assistant Head: August 2016

Next review: August 2017