



## Searching, Screening and Confiscation Policy

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## Legal Framework

This policy has due regard to legislation and statutory guidance, including, but not limited to, the following:

- Health and Safety at Work etc. Act 1974.
- Education Act 1996.
- Education and Inspections Act 2006.
- The Schools (Specification and Disposal of Articles) Regulations 2012.
- The School Behaviour (Determination and Publicising of Measures in Academies) Regulations 2012.
- European Convention on Human Rights.
- DfE (2018) 'Searching, screening and confiscation'.
- DfE (2013) 'Use of reasonable force'.
- DfE (2016) 'Behaviour and discipline in schools'.

This policy operates in conjunction with the following school policies:

- **Behaviour for Learning Policy.**
- **Use of Reasonable Force Policy.**
- **Complaints Procedures Policy.**
- **Disciplinary Policy and Procedure.**
- **Surveillance and CCTV Policy.**

## Screening

Under the school's statutory power to make rules on student behaviour and the duty to manage the safety of staff, students and visitors, the school imposes a requirement that students undergo screening. All members of staff have the authority to screen students.

### What the law allows:

- Schools can 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.
- Schools' statutory power to make rules on pupil behaviour<sup>2</sup> and their duty as an employer to manage the safety of staff, pupils and visitors<sup>3</sup> enables them to impose a requirement that pupils undergo screening.
- Any member of school staff can screen pupils.

If a student refuses to be screened, the school may refuse to allow that student on to the premises to protect the safety of his/herself, other students and staff. If a student fails to comply with being screened, and the school does not allow the student onto the premises, the school has not excluded that student and the student's absence will be treated as unauthorised. The student should comply with the screening rules so they can attend school. Screening without physical contact is not subject to the same conditions as those that apply to the powers to search without consent.

## Searching with Consent

Any member of staff has the authority to search students for any item with their consent. Formal written consent is not required for this sort of search. Items banned from the school premises are outlined later within this policy.

If a member of staff suspects a student is in possession of a banned item, the student will be instructed to turn out their pockets or bag. If the student refuses to do this, the staff member will escort the student to a member of SLT immediately.

## Authorising Members of Staff

Only the Principal and authorised members of staff have the authority to search students without their consent. The authorised members of staff at Hagley Catholic High School are all members of the Senior Leadership Team.

## **Searching Without Consent**

The Principal and SLT have the statutory power to search students or their possessions, without consent, where they have reasonable grounds for suspecting that the student may be in possession of a prohibited item. The staff member will decide what constitutes as reasonable grounds for suspicion on a case-by-case basis.

Prohibited items are:

- Knives or weapons.
- Alcohol.
- Illegal drugs.
- Stolen items.
- Tobacco or any associated paraphernalia (to include vapes).
- Fireworks.
- Pornographic images.
- Any item 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 the property of, any person.

Students will only be searched by staff members who are the same sex as them and all searches will be witnessed by another member of staff who will be, where possible, the same sex as the student being searched.

A search will only be conducted by a person who is not the same sex as the student being searched, or without a witness, where the staff member reasonably believes that there is a risk of serious harm if the search is not conducted immediately. Under these exceptional circumstances, the member of staff conducting the search will consider that a student's expectation of privacy increases as they get older. The school may consider the use of CCTV footage in order to decide whether to conduct a search for an item. Any CCTV usage will be conducted in line with the school's Surveillance and CCTV Policy.

An item banned by the school rules will only be searched for without consent if it is identified in the school rules that it is an item that can be searched for. Banned items include:

- Legal highs
- Energy drinks
- Confectionary intended for sale in school
- Mobile devices (if students refuse to hand them over when requested to)

Searches without consent will only be carried out on the school premises or, if elsewhere, where the member of staff conducting the search has lawful control or charge of the student, e.g. on a school trip.

## **During the Search**

A student's possessions\*, their locker or bags will only be searched in the presence of the student and another member of staff, except where there is a risk that serious harm will be caused if the search is not conducted immediately.

The power to search without consent enables a personal search, involving removal of outer clothing\*\* and the searching of pockets, but not an intimate search going further than that, which only a person with more extensive powers (i.e. a police officer) can do. The person conducting a search will not ask the student being searched to remove any clothing other than outer clothing.

If a student does not consent to a search, then they may be subject to a search without consent, but only for prohibited items.

Members of staff are permitted to use such force as is reasonable, given the circumstances, when conducting a search for prohibited items, but will not use force to search for items banned only under school rules.

## After the Search

Staff members are permitted to confiscate, retain or dispose of a student's property where it is reasonable to do so. Staff will use their discretion to confiscate, retain and/or destroy any item found due to a search with the student's consent, so long as it is reasonable in the circumstances. Where any item is reasonably suspected to be an offensive weapon, it will be passed to the police.

Staff are legally protected from liability in any proceedings brought against them for any loss of, or damage to, any item they have confiscated, provided they acted lawfully.

## Items Found as a Result of a Search Conducted Without Consent

Staff members carrying out a search are permitted to seize any item that they have reasonable grounds for suspecting is a prohibited item or is evidence in relation to an offence.

When a staff member conducting a search find:

- **Alcohol** – they will retain or dispose of the item as they see appropriate; the alcohol will not be returned to the student.
- **Controlled drugs** – they will deliver them to the police as soon as possible. However, they may also be disposed of if the member of staff thinks there is a good reason to do so.
- **Other substances** - which are not believed to be controlled drugs, will be confiscated if it is believed that they may be detrimental to behaviour and discipline.
- **Stolen items** – they will deliver these to the police as soon as possible or return them to the owner if they think there is a good reason to do so.
- **Smoking paraphernalia** to include **Tobacco, cigarette's, cigarette papers, vapes and vape refills** - will be retained or disposed of; they will not be returned to the student.
- **Fireworks** – they will be retained or disposed of, but not returned to the student.
- Any form of **pornographic image** – they will either be disposed of directly or ordered to be disposed of by the student themselves (if it is on a mobile device). Images will not be disposed of, if there are reasonable grounds to suspect that its possession constitutes a specified offence (i.e. the image is extreme child pornography); in these cases, the staff member will inform the police as soon as possible and provide the evidence as requested.
- An item that has been or is likely to be used to commit an **offence** or to cause **personal injury** or **damage to property** – they will be delivered directly to the police, return the item to the owner, or retain or dispose of the item.
- **Weapons** or **items which are evidence of an offence** – they will be passed to the police as soon as possible.

It is up to authorised staff to decide whether there is a 'good reason' not to deliver stolen items or controlled drugs to the police. In determining what a good reason is, the member of staff will take into account all relevant circumstances and use their professional judgement to determine whether they can safely dispose of the item.

Where the member of staff is unsure of the legal status of a substance and has reason to believe it may be a controlled drug, the item will be treated as such.

In relation to stolen items, the police will not be involved in dealing with low-value items (e.g. pencil cases). However, it may be appropriate for the school to contact the police if high-value items (e.g. laptops) or illegal items (e.g. fireworks) are involved.

## Electronic Devices

If an electronic device that is prohibited by the school rules or that is reasonably suspected to have been, or is likely to be, used to commit an offence or cause personal injury or damage to property is found during a search, the staff member is permitted to examine any data or files on the device where there is good reason to do so.

Parental consent is not required in order to search a student's phone if it has been seized in a 'without consent' search.

Staff have the authority to delete data or files if they think there is a good reason to do so, unless the device is suspected to be relevant to an offence, or is a pornographic image of a child or an extreme pornographic image; in these cases, the device will be given to the police and files and data will not be deleted from the device prior to doing this.

In determining what a good reason is, the member of staff will reasonably suspect that the data or file on the device has been, or could be, used to cause harm, to disrupt teaching or break the school rules. Any electronic device that has been seized which is prohibited by the school rules, and there are reasonable grounds to suspect that it contains evidence relating to an offence, will be given to the police as soon as possible.

If a member of staff does not find any material they suspect is evidence in relation to an offence, and decides to not give the device to the police, they are permitted to decide whether it is appropriate to delete any files or data from the device or retain the device as evidence of a breach of school discipline.

### **Parental Consent**

The school is not required to inform parents before a search takes place or to seek their consent to search their child. The Principal or authorised member of staff will inform the individual student's parents where alcohol, illegal drugs or potentially harmful substances are found via an initial call home, though this is not a legal obligation.

Complaints about screening or searching will be dealt with in line with the school's Complaints Procedures Policy.

### **Enforcement**

All staff are expected to act in accordance with this policy. Any breach of this policy will be dealt with in line with the school's Complaints Procedures Policy.

### **Monitoring and Review**

This policy will be reviewed on an annual basis by the Principal. Any changes to this policy will be communicated to all members of staff, students and their parents/carers.

### **Definitions**

**\*Possessions** – any goods over which the student has or appears to have control, including desks, lockers and bags.

**\*\*Outer clothing** – clothing that is not worn next to the skin or immediately over a garment that is being worn as underwear, e.g. hats, shoes, gloves.