

**What legislation does this guidance refer to?**

- Coroners and Justice Act 2009
- Criminal Justice and Immigration Act 2008
- Health and Safety at Work etc. Act 1974
- The Education Act 1996
- The Education and Inspections Act 2006
- The Education (Independent School Standards) Regulations 2014
- The Schools (Specification and Disposal of Articles) Regulations 2012

**Policy Statement**

Stowe School is committed to safeguarding and promoting the welfare of the members of its community. Accordingly, there may be occasions when it becomes necessary to search the person, the belongings or the room of a pupil. This policy sets out the circumstances in which such searches can be carried out and the means by which it should be done, in accordance with the Education and Inspections Act 2006 and DFE Guidance for Schools on Screening, Searching and Confiscation (January 2018).

The people in the School who can carry out any such search are the members of the House Team of the pupil(s) concerned or members of the School's ELT. In exceptional circumstances, the Head, Senior Deputy Head or Deputy Head Pastoral may authorise others to carry out such a search. This policy would apply on authorised school trips where school rules are in force. In all circumstances the consent of the pupil to any search should be requested. A second adult witness should always be present, unless there is a reasonable belief 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 a second adult.

Incident reports must be submitted to the Senior Deputy Head about any such search, listing all the main details. Affected pupils' parents should always be contacted after any search for a prohibited item, regardless of the outcome.

In the general course of school life, given pupils' good conduct overall and taking into account the very good relationships between pupils and staff, it is unlikely that searching pupils will be necessary. There are however some occasions when it might be; at those times, this policy should be followed.

Searching can play a critical role in ensuring that schools are safe environments for all pupils and staff. It is a vital measure to safeguard and promote staff and pupil welfare, and to maintain high standards of behaviour through which pupils can learn and thrive.

The Head and authorised Stowe staff (ELT and House Team) have a statutory power to search a pupil or their possessions where they have reasonable grounds to suspect that the pupil may have a prohibited item listed below or any other item that the school rules identify as an item which may be searched for.

The list of prohibited items is:

- knives and weapons;
- alcohol;
- illegal drugs;
- stolen items;
- 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 of; any person (including the pupil).
- an article specified in regulations:
  - Vapes, vaping paraphernalia, tobacco and cigarette papers;
  - fireworks; and
  - pornographic images.

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

When exercising their powers, Stowe 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.

Stowe staff may wish to consider using CCTV footage to decide whether to conduct a search for an item. This will be done in line with the School's CCTV Policy.

### **Before searching**

A search can be considered if the member of staff has reasonable grounds for suspecting that the pupil is in possession of a prohibited item or any item identified in the school rules for which a search can be made, or if the pupil has agreed.

The authorised member of staff should make an assessment of how urgent the need for a search is and should consider the risk to other pupils and staff.

Before any search takes place, the member of staff conducting the search should 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. Unless the need to search meets the criteria for searching without consent.

The authorised member of staff should always seek the co-operation of the pupil before conducting a search. If the pupil is not willing to co-operate with the search, the member of staff should consider why this is.

Reasons might include that they:

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

If a pupil continues to refuse to co-operate, the member of staff may sanction the pupil in line with the school's behaviour policy, ensuring that they are responding to misbehaviour consistently and fairly.

If the member of staff still considers a search to be necessary, but is not required urgently, they should seek the advice of the Head, Senior Deputy Head or Designated Safeguarding Lead (or Deputy). During this time the pupil should be supervised and kept away from other pupils.

### **During a search**

#### **Where**

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

#### **Who**

The law states 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 carrying out the search reasonably believes 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 a member of ELT and a written record of the search provided.

### **The extent of the search**

A member of staff may search a pupil's outer clothing, pockets, possessions, desks or lockers, boarding house dorm areas. If a pupil's electronic devices are believed to hold information integral to the search then they can also be searched – files and data. All information about what is found should be passed to the DSL immediately and a report provided.

The person conducting the search must not require the pupil 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, with gloves being an obvious exception

'Possessions' means any goods over which the pupil has or appears to have control - this includes desks, lockers, wardrobes, drawers and bags.

A member of staff is able to search dorm areas and desks or other personal spaces at the school for any item provided the pupil agrees. The School can make it a condition of having the personal space that the pupil agrees to have these searched. If the pupil withdraws their agreement to search, a search may be conducted both for the prohibited items listed and any items identified in the School rules for which a search can be made.

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

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

Essentially there are two types of search: those with consent and those without consent.

### **Searching with Consent**

If the pupil refuses to comply, this is not necessarily an admission of guilt; however, the matter should be referred to a senior member of staff if appropriate.

- School staff can search pupils with their consent for any item which is banned by the school rules.
- Schools are not required to have formal written consent from the pupil for this sort of search – it is enough for the teacher to ask the pupil for him/her to turn out his/her pockets or if the teacher can look in his/her room, desk or bag.

### **Searching without consent**

- Items that can be searched for under these powers include knives, weapons, alcohol, illegal drugs, stolen items and any other items prohibited by the school rules (referred to as prohibited items).
- The search should always be carried out in the presence of another adult witness, if at all possible a member of staff of the same sex of the child. A search of a pupil of the opposite sex may be carried out and/or without a witness present, where there is a reasonable belief 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 a second adult.
- The search may be carried out if you have reasonable grounds of suspecting that a pupil is in possession of a prohibited item.

### **Searching a Pupil's Person**

If a pupil is suspected of carrying a prohibited item he/she should be asked, in the presence of a second adult witness, to turn out his/her pockets.

- Staff should not touch pupils but are allowed to ask them to remove any outer clothing in order to conduct the search. (Outer clothing refers to any item which is not immediately touching the skin Gloves?).
- If this fails and possession of such items is still strongly suspected, the pupil should then be told that the police might be called, who are allowed to conduct a personal search if they believe that a crime has been committed.
- Parents or guardians only need to be informed of the search if prohibited items have been discovered.

### **Searches of a Pupil's Personal Property**

- There may be circumstances in which staff wish to search a pupil's personal property, such as a bag, mobile phone or locked tuck box, drawer or cupboard.
- For searches involving a minor item such as a lost CD, it is more appropriate to ask pupils to search their own property to see if the item has been misplaced.
- Under common law powers, if a pupil consents, any item may be searched for.
- If a pupil does not consent to a search, it is only possible to search for the prohibited items listed earlier.
- Any such search must be witnessed by a second adult and, ideally, the pupil, unless there is a reasonable belief 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 a second adult.
- Proper records should be kept.
- Parents or guardians only need to be informed of the search if prohibited items have been discovered.

### **Searches of a Pupil's Post**

If there is suspicion about the contents of items of post that have been received by a pupil, the pupil should be asked to open the post in the presence of a member of the house team.

**Searches of a Pupil's computers, mobile phones and other electronic devices.**

The School reserves the right, where there is reasonable suspicion of a disciplinary offence, to inspect and monitor the use of computers, mobile phones and other electronic devices.

If there are reasonable grounds of suspecting that a pupil has committed a disciplinary or safeguarding offence or is in possession of a prohibited material the devices may be confiscated and checked by a nominated adult. Any such search must be sanctioned by the Head, Senior Deputy Head or Deputy Head Pastoral.

**Searches of School Property**

- Those authorised to carry out searches may search school property, such as a pupil's locker or desk, if they believe a prohibited item(s) to be stored there.
- Prior consent can be sought, but individuals should be made aware that the school may still proceed with a search even if consent is refused. The decision to go ahead in such circumstances would have to take into account the likelihood of an offence having been committed.
- A second adult witness should always be present and if possible, the pupil concerned, unless there is a reasonable belief 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 a second adult
- For less serious items, the same rules apply as above, but 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.
- Forcible entry into locked school property is only justified in extreme circumstances and would also need the authorisation of the Head, Senior Deputy Head or Deputy Head Pastoral.
- Parents or guardians only need to be informed of the search if prohibited items have been discovered.
- If an illegal item is found as a result of the search (e.g. drugs, a knife, a firearm), it should be handed to the Senior Deputy Head who will contact the police.

**School Trips**

This policy on searches of pupils and their belongings applies at all times, irrespective of whether the pupil is at the school or on a non-residential, or residential trip, outside Stowe.

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 Head, Senior Deputy Head 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, unless there is a reasonable belief 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 a second adult. Full notes must be kept and an incident report submitted in due course.

### **Safeguarding**

The Designated Safeguarding Lead (or Deputy) should be informed of any searching incidents where the member of staff had reasonable grounds to suspect a pupil was in possession of a prohibited item. 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.

### **Refusing to allow a search to take place**

If a pupil refuses to facilitate a search taking place, for example not providing access details to a phone or laptop they could place themselves in a position where their place at the school becomes untenable because they are not abiding by reasonable requests which are disciplinary and safeguarding in nature.

As mentioned above, the school has the right to search without consent when searching for the following: knives, weapons, alcohol, illegal drugs, stolen items and any other items prohibited by the school rules (referred to as prohibited items).

If access to the electronic device is not granted and there is a serious suspicion of the device possessing evidence a crime(s) has been committed the school reserves the right to contact the police who then have the power to seize the phone for searching.

### **After a search**

Whether or not any items have been found as a result of any search, Stowe 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, school staff should follow Stowe'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 any prohibited items are found during the search.

If a pupil is found to be in possession of a prohibited item listed, then the staff member should alert the Designated Safeguarding Lead (or Deputy) and the pupil should be sanctioned in line with the School's Behaviour Policy to ensure consistency of approach.

### **Recording searches**

Any search by a member of staff for a **prohibited item** listed in and all searches conducted by police officers should be recorded in the School's safeguarding reporting system, including whether or not an item is found. This will allow the Designated Safeguarding Lead (or Deputy) to identify possible risks and initiate a safeguarding response if required. Staff members should follow the School policy in these cases.

Staff should include in the record of each search:

- the date, time and location of the search;
- which pupil was searched;
- who conducted the search and any other adults or pupils present;
- what was being searched for;
- the reason for searching;
- what items, if any, were found; and
- what follow-up action was taken as a consequence of the search.

### **Informing parents**

Stowe should reinforce the whole-School approach by building and maintaining positive relationships with parents. Parents should **always** be informed if a search for a prohibited item does discover said item(s). as soon as is practicable. A member of staff should inform the parents of what, if anything, has been confiscated and the resulting action the School has taken, including any sanctions applied.

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



## Confiscation

### Items found as a result of a search

An authorised staff member carrying out a search can confiscate any item that they have reasonable grounds for suspecting:

- poses a risk to staff or pupils;
- is prohibited, or identified in the school rules for which a search can be made
- 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 member of staff must safely dispose of the drugs.

The member of staff should take into account all relevant circumstances and use their professional judgement to determine whether they can safely dispose of the controlled drug. When 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. If the member of staff is 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 member of staff believes they could be harmful.

Where a person conducting a search finds **alcohol, vapes and vape paraphernalia, tobacco, cigarette papers or fireworks**, they may retain or dispose of them as they think appropriate but should 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 must be delivered to the police as soon as reasonably practicable. Members of staff should never intentionally view any indecent image of a child (also sometimes known as nude or semi-nude images). Staff must never copy, print, share, store or save such images.

Where a member of staff finds **stolen items**, these must be delivered to the police as soon as reasonably practicable. However, if there is good reason to do so, the member of staff may also return the item to the owner, or retain or dispose of it if returning them to their owner is not practicable.

The member of staff should take into account all relevant circumstances and use their professional judgement to determine whether they can safely dispose of the seized article. In taking into account the relevant circumstances, the member of staff should consider the following:

- 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 school staff may judge it appropriate to contact the police if the items are valuable;
- whether the item is banned by the school;
- 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** must 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** should be delivered to the police as soon as reasonably practicable, returned to the owner, retained or disposed of.

The member of staff should 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. In taking into account all relevant circumstances the member of staff should consider:

- whether it is safe to dispose of the item; and
- whether and when it is safe to return the item.

If a member staff suspects a confiscated item has been used to commit an offence or is evidence in relation to an offence, the item should be delivered to the police.

Members of staff should use their judgement to decide to return, retain or dispose of any other **items banned under the school rules**. The member of staff should take into account all relevant circumstances and use their professional judgement to determine whether they can safely dispose of the seized item. In taking into account all relevant circumstances, the member of staff should consider:

- 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 School.

Members of staff should follow any additional guidance and procedures on the retention and disposal of items put in place by the School.

## Other relevant departmental advice and statutory guidance

- [Behaviour in Schools guidance](#)
- [Schools and College security guidance](#)
- [Equality Act 2010 and schools guidance](#)
- [Keeping children safe in education guidance](#)
- [Use of reasonable force in schools guidance](#)
- [Working together to safeguard children guidance](#)
- [DfE and ACPO drug advice for schools](#)