

WOLFRETON SCHOOL and SIXTH FORM COLLEGE

Policy Document SEARCHING, SCREENING AND CONFISCATION POLICY

Written in June 2018 by:	
Headteacher Assistant Headteacher –Safeguarding and Personal Development	
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1. Statement of intent

Wolfreton School and Sixth Form College appreciates that young people have the right to expect a reasonable level of personal privacy and will do its utmost to ensure that, as far as possible, this right is respected.

Nevertheless, the academy also takes seriously its obligation under health and safety legislation to be managed in a way which does not expose young people or staff members to unnecessary risks.

This policy sets out the framework in which the academy will meet this obligation by outlining the circumstances in which young people can be screened and searched. The policy also outlines the legal powers to seize and confiscate items during a search.

2. Legal framework

This policy has due regard to relevant 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 academy policies:

- Positive Discipline Behaviour Policy
- Physical Restraint and Reasonable Force Policy
- External Complaints Policy
- Disciplinary Policy and Procedure

- CCTV Policy

3. Authorising members of staff to search

Only the Headteacher and authorised members of staff have the authority to search young people for **any item with their consent**. Formal written consent is not required.

Authorised staff may also search young people **for items listed in Section 4 without their consent**.

The Headteacher is responsible for deciding who the authorised staff are. Staff members authorised by the Headteacher with these powers are:

- Senior Leadership Team
- Safeguarding Manager
- Heads of House
- Pastoral Managers
- The visit leader on an educational visit

Staff members are permitted to refuse to undertake a search.

If a security guard, who is not a member of the academy staff, searches a young person, a permanent member of the academy staff will witness the search.

Some staff members are authorised to search for some items but not others, e.g. a member of staff could be authorised to search for stolen property, but not weapons.

When deciding which staff will be authorised to undertake searches under these powers, the Headteacher will consider whether the member of staff requires any additional training to enable them to carry out their responsibilities.

4. Searching

The Headteacher and authorised staff have the authority to search young people for any item with their consent.

If a member of staff suspects a young person is in possession of a banned item (see below), the young person will be instructed to turn out their pockets or bag. If the young person refuses to do this, the staff member will apply an appropriate punishment in line with the academy's Positive Discipline Behaviour Policy.

The Headteacher and authorised staff also have the statutory power to search young people or their possessions, without consent, where they have reasonable grounds for suspecting that the young person 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.

Items banned from the academy premises include:

- Alcohol
- Cigarettes / E-cigarettes
- Fireworks
- Knives or weapons
- Illegal drugs
- Lighters

- Matches
- New Psychoactive Substances (NPS)
- Non prescribed hypodermic needles
- Paint thinners
- Pornographic images
- Stolen items
- Tobacco and cigarette papers
- 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.

Young people 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 young person being searched.

A search will only be conducted by a person who is not the same sex as the young person 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 young person's expectation of privacy increases as they get older.

The academy may consider the use of CCTV footage in order to decide whether to conduct a search of an item. Any CCTV usage will be conducted in line with the academy's CCTV Policy.

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

5. During the search

Definitions:

- **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.
- **Possessions** – any goods over which the young person has or appears to have control, including lockers and bags.

The person conducting a search will not ask the young person being searched to remove any clothing other than outer clothing.

A young person's possessions, including their locker will only be searched in the presence of the young person 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.

If a young person 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 academy rules.

6. After the search

Staff members are permitted to confiscate, retain or dispose of a young person's property where it is reasonable to do so.

Staff members will use their discretion to confiscate, retain and/or destroy any item found due to a search with the young person'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 members 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 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 finds:

- **Alcohol**, they will retain or dispose of the item as they see appropriate; the alcohol will not be returned to the young person.
- **Controlled drugs**, they will arrange for them to be collected by the police as soon as possible; however, they may also be disposed of if the staff member thinks there is a good reason to do so.
- **Other substances** which are not believed to be controlled drugs, they will confiscate them if they believe them to be detrimental to behaviour and discipline.
- **Stolen items**, they will arrange for them to be collected by the police or return them to the owner if they think there is a good reason to do so.
- **Tobacco or cigarette papers**, they will retain or dispose of them; they will not be returned to the young person.
- **Fireworks**, they will be retained or disposed of, but not returned to the young person.
- A **pornographic image**, they will dispose of the image unless 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 arrange for them to be collected by the police.
- 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 arrange for them to be collected by 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 arrange for them to be collected by 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 academy to contact the police if high-value items (e.g. laptops) or illegal items (e.g. fireworks) are involved.

7. Electronic devices

If an electronic device that is prohibited by the academy 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 young person's phone if it has been seized in a 'without consent' search.

Staff members 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 academy rules.

Any electronic device that has been seized which is prohibited by the academy 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 academy discipline.

8. Parental consent

The academy is not required to inform parents before a search takes place or to seek their consent to search their child.

The Assistant Headteacher – Safeguarding and Personal Development, or another designated member of the Senior Leadership Team will inform the individual young person's parents where alcohol, illegal drugs or potentially harmful substances are found via a phone call, though this is not a legal obligation.

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

9. Enforcement

All staff members are expected to act in accordance with this policy.

Any breach of this policy will be dealt with in line with the academy's Disciplinary Policy and Procedure.

