



Searching, Screening and Confiscation Policy

Revised: May 2020
Review date: May 2021

This policy should be read in conjunction with the OxSFC COVID-19 policy that overrides the guidelines/procedures in this policy, where appropriate. The guiding principle will always be to maintain the health and safety of all stakeholders.

Search

College staff can search a student for any item if the student agrees. The ability to give consent may be influenced by the student's age or other factors.

The Principal or designated deputy and staff authorised by the Principal or designated deputy 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 and drug paraphernalia
- stolen items
- tobacco and cigarette papers (under the age of 16)
- fireworks
- pornographic images
- any article that the member of staff reasonably suspects has been, or is likely to be, used to:
 - o commit an offence, or
 - o cause personal injury to, or damage to the property of, any person (including the student).

If a student does not consent to a search (or withdraws consent having signed a consent form) then it is possible to conduct a search without consent but only for the "prohibited items" listed above.

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. Searches without consent can only be carried out on the College premises or, if elsewhere, where the member of staff has lawful control or charge of the student, for example on College trips in England or in training settings.

The Principal and staff authorised by the Principal can also search for any item banned by the College rules which has been identified

in the rules as an item which may be searched for. The powers allow College staff to search regardless of whether the student is found after the search to have that item.

Staff must decide in each particular case what constitutes reasonable grounds for suspicion. 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 suspect that the student is concealing a prohibited item. College staff, other than security staff, can refuse to undertake a search.

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 member of staff can apply an appropriate punishment as set out in the College's Promoting Good Behaviour policy.

'Possessions' means any goods over which the student has or appears to have control - this includes in lockers and bags. A student's possessions can 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 to a person if the search is not conducted immediately and where it is not reasonably practicable to summon another member of staff.

A student refusing to co-operate with such a search raises the same kind of issues as where a student refuses to stop any other unacceptable behaviour when instructed by a member of staff - in such circumstances, the College will apply an appropriate disciplinary penalty.

College staff can seize any prohibited item found as a result of a search. They can also seize any item, they consider harmful or detrimental to College discipline. The Assistant Principal Pastoral and Boarding (APPB) should be informed of any such seizure.

When undertaking a search the staff member concerned must be the same sex as the student being searched; and there must be a witness (also a staff member) and, if possible, they should be the same sex as the student being searched. There is a limited exception to

this rule. A member of staff can carry out a search of a student of the opposite sex 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.

The person conducting the search may not require the student 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.

Members of staff can only use such force as is reasonable given the circumstances when conducting a search for knives or weapons, alcohol, illegal drugs or drug paraphernalia, stolen items, tobacco and cigarette papers (under 16s), fireworks, pornographic images or articles that have been or could be used to commit an offence or cause harm.

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.

Where a member of staff finds alcohol, they will dispose of it and not return it to the student. They will inform the APPB of the seizure and subsequent disposal.

Where a member of staff finds controlled drugs, they will inform the APPB immediately. The seized controlled drugs will be delivered to the police as soon as possible but may be disposed of if the APPB thinks there is a good reason to do so. Where they find other substances which are not believed to be controlled drugs these can be confiscated where a member of staff believes them to be harmful or detrimental to good order and discipline and inform the APPB. This would include, for example, so called 'legal highs'. Where staff suspect a substance may be controlled they should treat them as controlled drugs as outlined above. Where they find stolen items, they will inform the APPB immediately who will liaise with the relevant authorities.

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Where a member of staff finds tobacco or cigarette papers they may retain or dispose of them. As with alcohol, this means that the College can dispose of tobacco or cigarette papers as they think appropriate but this will not include returning them to the student.

Fireworks found as a result of a search may be retained or disposed of but should not be returned to the student.

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 child pornography) in which case the APPB or another member of the College Safeguarding Team must be informed immediately. The APPB will liaise with the relevant authorities.

Where an article that has been (or is likely to be) used to commit an offence or to cause personal injury or damage to property in which case the APPB must be informed immediately. The APPB will liaise with the relevant authorities.

Where the person conducting the search finds an electronic device that is prohibited by the College rules or that they reasonably suspects has been, or is likely to be, used to commit an offence or cause personal injury or damage to property, they may examine any data or files on the device where there is a good reason to do so. They may also delete data or files if they think there is a good reason to do so, unless they are going to give the device to the police. This power applies to all schools and colleges, and there is no need to have parental consent to search through a young person's mobile phone if it has been seized in a lawful 'without consent' search and is prohibited by the College rules or is reasonably suspected of being, or being likely to be, used to commit an offence or cause personal injury or damage to property.

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 should 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 College rules.
- If an electronic device that is prohibited by the College rules has been seized and the member of staff has reasonable grounds to suspect that it contains evidence in relation to an offence, they must inform the APPB immediately who will liaise with the relevant authorities. Material on the device that is suspected to be evidence relevant to an offence, or that is a pornographic image of a child or an extreme pornographic image, will not be deleted prior to giving the device to the police.
- If a staff member does not find any material that they suspect is evidence in relation to an offence, and decides not to give the device to the police, they can decide whether it is appropriate to delete any files or data from the device or to retain the device as evidence of a breach of College discipline.

Under article 8 of the European Convention on Human Rights students have a right to respect for their private life. In the context of these particular powers, this means that students have the right to expect a reasonable level of personal privacy. The right under Article 8 is not absolute, it can be interfered with but any interference with this right by a college/school (or any public body) must be justified and proportionate. The powers to search in the Education Act 1996 are compatible with Article 8. The College in exercising those powers lawfully should have no difficulty in demonstrating that it has also acted in accordance with Article 8.

Section 91 of the Education and Inspections Act 2006, enables a member of staff to confiscate, retain or dispose of a student's property as a disciplinary penalty, where reasonable to do so. 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. They can also seize any item, however found, which they consider harmful or detrimental to College discipline. Where any article is reasonably suspected to be an offensive weapon, it must be passed to the police.

The College 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 the College will do so. The College will inform the individual student's parents or guardians where alcohol, illegal drugs or potentially harmful substances are found, though there is no legal requirement to do so.

Screening

The College can require students 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 students.

The College's statutory power to make rules on student behaviour and duty as an employer to manage the safety of staff, pupils and visitors enables the College to impose a requirement that pupils undergo screening. Any member of College staff can screen students.

If a student refuses to be screened, the College may refuse to have the student on the premises. Health and safety legislation requires that the College is managed in a way which does not expose students or staff to risks to their health and safety and this would include making reasonable rules as a condition of admittance.

If a student fails to comply, and the College does not let the student in, the College has not excluded the student and the student's absence should be treated as unauthorised. The student should comply with the rules and attend.

This type of screening, without physical contact, is not subject to the same conditions as apply to the powers to search without consent.

If a student is suspected of being, or being likely to be, used to commit an offence or cause personal injury or damage to property.

Complaints

Complaints about screening or searching should be dealt with through the normal College complaints procedure.