

Searches and Confiscation Policy

for both the Junior School and Senior School

Issue number	1.1
Name and appointment of owner / author	Stuart Bachelor, Deputy Head
Review Body	SLT and Full Board of Governors
Last updated	7 th September, 2021
Reason for update	periodic review
Last reviewed by SLT	September 2021
Last reviewed by Governors	September 2018
Next SLT review due	May 2024
Next Governor review due	September 2021
Where available	Freemen's Staff SharePoint site, Parent Portal, Governor Portal

Policy statement

Section 3 (5) of the Children Act 1989 states:

‘a person who... does not have parental responsibility... but has the care of the child, may do what is reasonable in all the circumstances of a case for the purpose of safeguarding or promoting the Child’s welfare.’

Freemen’s is a school whose pupils are on the whole very well behaved. It is therefore unusual for the School to need to search pupils or their belongings, or to have to resort to confiscating their property. However, in order to keep pupils and staff safe, and to maintain good order and discipline, the School reserves the right, in accordance with law, to search and confiscate where necessary and in line with the following procedures. The School also recognises and respects the privacy of pupils, so searches are never undertaken lightly or without good reason.

The School does not use screening (whereby pupils are required to pass through a metal detector in order to screen for weapons).

As a school with boarders, we are bound by the National Minimum Standards for Boarding Schools (April 2015), sub-paragraph 9.4 of which specifies that, “Any search of boarders’ personal belongings should be carried out in accordance with section 550ZA of the Education Act 1996 and with regard to any guidance issued by the Secretary of State.” The current guidance is *Searching, screening and confiscation Advice for headteachers, school staff and governing bodies* (January 2018), and our procedures for boarding and day pupils alike are compliant with the same.

It should be noted that the appropriate procedures differ depending on which country the search is proposed to take place in. The procedures below can be followed in full only when in England.

This policy should be read in conjunction with the following documents:

Behaviour Policy
Boarding Policy
Boarding Handbook
Code of Conduct and School Rules
Complaints Policy
Physical Restraint Policy
Safeguarding Policy

Procedures

Reasons for conducting a search

A member of staff conducting a search must have a valid reason for doing so, which would usually include a complaint, rumour or whistleblow that, while on the School's premises, on a school trip or representing the School, a pupil is in possession of articles or substances that are contrary to School discipline. Examples of valid reasons include, but are not limited to:

- reasonable suspicion that a pupil is in possession of materials associated with smoking;
- reasonable suspicion that a pupil is in possession of alcohol;
- reasonable suspicion that a pupil is in possession of drugs or of materials associated with drugs (acknowledging the School's duty under section 8 of the Misuse of Drugs Act (1971) not to permit knowingly the misuse of drugs on School premises);
- following a theft;
- reasonable suspicion that a pupil is in possession of objects potentially harmful to themselves or to others;
- reasonable suspicion that a pupil is in possession of a prohibited item or items. The list of prohibited items in the *Code of Conduct and School Rules* applies to possessions held in any area of the School, including Walbrook, as well as while on school trips or representing the School at sports fixtures etc.; the list found in the *Boarding Handbook* applies to those held in the Boarding House.
- reasonable suspicion that pupil is in possession of any object carried with the intent to damage or deface property, including by drawing graffiti
- reasonable suspicion that a mobile 'phone or other electronic device has been used: during a lesson without the permission of the teacher; to bully another child while the alleged perpetrator is under the care of the school; to perpetrate peer on peer abuse; to create, store or send youth-produced sexual imagery ('sexting'); to view or to distribute pornography; for any other purpose in contravention of the *Code of Conduct and School Rules*.

Authorisation for conducting a search

If the proposed search would occur outside England (e.g. on a school trip in France), authorisation can only be given for a search to be conducted with the consent of the pupil.

If a member of staff believes there to be a valid reason to search a pupil or his/her possessions, he/she first consults a teaching member of the School's Senior Leadership Team (SLT), ideally the Deputy Head. All

teaching members of SLT are empowered by the Headmaster to conduct a search or to ask another member of staff to do so.

Exceptions to this protocol are seldom justified. However, if a member of staff is unable to consult a member of SLT (e.g. if he/she is on a school trip in England and has poor mobile telephone signal) *and* has good reason to think that delaying a search may put pupils or staff at risk of harm, he/she may conduct a search without further authorisation in line with the procedures below.

Prior to a search

Once a search has been authorised, there is no requirement for the School to give the pupil or his/her parents prior notification of a search.

Prior to a search, the pupil is informed of what is about to happen and why such action is being taken. The consent of the pupil is then sought. According to law, however, a search can be conducted irrespective of whether or not the pupil consents, and the pupil is informed of this. He/she is also informed that withholding consent for a search is a serious breach of discipline and will be met with a significant sanction.

If a pupil withholds consent, the member of staff authorised to conduct the search must consult a member of SLT anew before proceeding any further. As above, this requirement can be waived if the member of staff is in England and has good reason to think that delaying a search may put pupils or staff at risk of harm.

Where a pupil withholds consent, depending on the circumstances it will be advised by the authorising member of SLT *either* that his/her belongings / bag / locker / desk can be searched but not his/her person *or* that the search should be abandoned altogether. In making this decision, the SLT member is mindful of the nature of the object that is being searched for and the potential for harm to be caused were it to be left undetected.

Ultimately in some circumstances the Police may have to be called if a pupil refuses to be searched.

During a search

Searches should be witnessed and recorded in writing. At least two members of staff should be present at all times during the search. At least one- and preferably both- of these must be of the same sex as the pupil concerned. These conditions may only be waived if there is reasonable belief that there is a risk that serious harm will be caused to a person if the search is not conducted immediately and it is not practicable to summon another member of staff.

A search may be undertaken of an individual pupils' possessions, bag, locker, desk or room (if a boarder). Wherever practicable, the pupil is instructed to empty bags and lockers etc. rather than a member of staff doing so. In any case, the pupil must be present while his/her possessions, bag, locker etc. are being searched.

In addition, a pupil may be asked to remove his/her outer clothing¹ and hand it to the member of staff so that it can be searched. A pupil can also be instructed to turn out any pockets on other clothing. Clothing should not be searched until it has been removed from the wearer and care should be taken to preserve the pupils' privacy and dignity. Searching the pupil's person beyond these parameters is not permitted under any circumstances.

If a search proceeds without consent and the pupil reacts with physical force of any kind, the member of staff acts in accordance with the School's Physical Restraint Policy. In line with statutory guidance, this allows the member of staff to use reasonable force if and only if searching 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.

A record of anything found during the search should be signed and dated by all present (see 'After the search' and *Appendix A*).

Searching electronic devices

Any electronic device is likely to have personal and sensitive data on it and will be regarded as private by its owner. Therefore, data or files on a pupil's electronic device are only examined during a search if there is a good reason to do so.

The teacher conducting the search may delete data or files (or ask the pupil to do so) if there is a good reason to do so. An example of this is deleting pornographic images from a mobile 'phone. Images are not deleted if they are suspected to be evidence relevant to an offence in law, in which case the Police are informed. More information about how the School deals with such images can be found in our Safeguarding Policy.

After the search

¹ '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.

Immediately after the search, a Search Record (see Appendix A) is completed indicating the date, time, circumstances and outcome of the search.

Parents are informed of the search, together with the reasons for it and its outcome, as soon as practical following the search.

A member of SLT is consulted before any disciplinary sanction is awarded on the strength of the outcome of a search.

Complaints

Parental complaints concerning a search or confiscation should be lodged using the School's normal Complaints Policy.

Confiscation

A member of staff can confiscate any prohibited item found either as a result of a search or without a search being necessary (e.g. if the item is found in a public space in the School). Members of staff can also seize any item that they consider harmful or detrimental to school discipline. What is then done with the item depends on its nature and the circumstances in which it was found.

The following are handed to the Police: stolen items, weapons, replica weapons, controlled drugs, electronic devices with illegal content; any article that has been or is likely to be used to commit an offence, personal injury or damage to property.

The following items (not an exhaustive list) are disposed of by the school rather than returned to the pupil: fireworks; tobacco products and associated paraphernalia; alcohol; pornography; matches or lighters; solvents; stink bombs; water bombs.

Other items are likely to be returned to the pupil. Items can be confiscated for a reasonable period as a disciplinary penalty. In the case of a confiscated mobile 'phone, it is typically handed to Junior / Senior Reception for safe-keeping and collected from there by the pupil at the end of the school day so that it can be used as a safety measure for the journeys to and from home. If returning the 'phone is not appropriate, contact is made with parents to explain the situation and to control any risk.

Every effort is made to secure and to take care of confiscated items. However, the law protects members of staff from liability in proceedings brought against them for any loss of, or damage to, any item that they have confiscated, provided they acted lawfully.

Appendix A Search Record

Name of pupil to be searched :

Male ☐

Female ☐

Name of staff members conducting search (minimum 2):

1.

2.

Date of search:

Time of search:

Is the pupil present?

Yes ☐

No ☐

Does the pupil give consent?

Yes ☐

No ☐

Item(s) being sought:

Reason(s) for the search (may be continued on separate sheet):

Prior authorisation received from (member of SLT):

Signed:

Date:

Prohibited items discovered during the search:

Actions taken following the search (may be continued on separate sheet):

Signature of person conducting search:

Print name:

Date: