

# Theft, Confiscation and Searching Policy and Procedure



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Responsible Person: Deputy Headmaster

References: The Education Act (1996)  
The Education and Inspections Act (2006)  
BSA Briefing Paper 15 (January 2005)  
Screening, Searching and Confiscation – advice for Head teachers,  
Staff and Governing Bodies (2014)

Policy Number: B3c

## THEFT

### Introduction

The School takes its responsibility for safeguarding the pupils' possessions seriously and views the theft of property as a serious disciplinary offence which contravenes the values and rules of the community.

It is School policy to discourage pupils from bringing expensive personal items or large sums of money into School, but it is recognised that this may not always be possible and that boarders, in particular, are likely to have some valuable personal items on School premises.

The emphasis in School policy is on prevention, but where theft does occur, the School will investigate and, where a pupil is deemed to have stolen an item belonging to another member of the School community, he/she can expect serious sanction. In some circumstances this may mean temporary or permanent exclusion.

Theft is understood, under the Theft Act 1988, to mean taking the property of another person with the intention of permanently depriving the owner of it.

### Prevention

In order to minimise the risk of theft of pupil property Senior House Staff should:

- Discourage pupils from bringing valuable items or large sums of money into School.
- Encourage pupils to keep necessary valuable items in their possession at all times.
- Discourage pupils from leaving valuable items unattended at any time unless locked in a secure location.
- Provide secure spaces (lockers or lockable studies) for individuals where personal possessions can be stored safely.
- In boarding houses run a house bank system whereby pupils can deposit money with the house staff who can keep it securely.
- Regularly remind pupils of the need to be security-conscious and of the potential penalties for theft.

### Reported Theft

If a pupil reports a theft, the following procedures should be followed. As a rule, Senior House Staff should be responsible for following up allegations of theft. If a theft is reported to another member of staff, he/she should pass the details to the appropriate Senior House Staff at the earliest possible opportunity:

- Ascertain the basic details and encourage the pupil concerned to consider whether the item may have been mislaid rather than stolen.
- Consider emailing all pupils and staff detailing the item lost and asking for it to be returned forthwith to the pupil concerned.
- In the circumstances where the item is not returned, report the theft to the Deputy Headmaster. Log the details in the house incident book.
- In discussion with the Deputy Headmaster, agree how the theft will be investigated and carry out the investigation. Log all details of the investigation and report the findings to the Deputy Headmaster.

### **Sanctions**

If a member of the School is found to have committed theft, the Deputy Headmaster will consult the Headmaster about the most appropriate action.

In some circumstances, and depending on the nature of the theft, the Deputy Headmaster will report the details to the local police who may wish to carry out their own investigation.

## **CONFISCATION OF PUPILS' PROPERTY**

### **Introduction**

It is accepted that there may be occasions when it will be necessary for staff to confiscate pupils' property in the interests of the smooth running of the School. In particular, members of staff may judge that an item of property needs to be confiscated on grounds of health and safety or where there has been a clear breach of School rules.

Under the Education and Inspections Act (2006) a member of staff may confiscate, retain or dispose of a pupil's property as a disciplinary penalty, when reasonable to do so.

Any confiscation of pupil property should be temporary or it might fall under the Theft Act 1968 which makes it a crime to confiscate property with the intention of permanently depriving the owner of it.

### **Procedure**

With this in mind, the following procedures should be followed when confiscating property:

- The member of staff should make a judgment as to whether confiscation of the item is the appropriate action. If in doubt, the member of staff should consult the Deputy Headmaster.
- The member of staff should ask the pupil to hand over the item concerned and explain to him/her why it is being confiscated. The member of staff should also explain that the item will be handed to the pupil's Senior House Staff.
- The member of staff should personally hand the item to the appropriate Senior House Staff at the earliest possible opportunity and explain the background to the confiscation. Where this is not possible, the item should be handed to the Deputy Headmaster.
- The Senior House Staff should log the confiscation in the House Sanctions Log and ensure the item is held securely until it is returned to the owner.
- The period of confiscation will depend on the nature of the item and the related offence. Generally, items should not be held for more than 24 hours; with mobile phones, for instance, it will usually be appropriate to return these at the end of the School day. It may be deemed appropriate to return the items to the parents rather than the pupil (e.g. if cigarettes have been confiscated); in these circumstances, contact should be made by Senior House Staff with the parents as soon as possible after the confiscation. If in doubt about the period of confiscation, Senior House Staff should consult the Deputy Headmaster.

## SEARCHES

### Establishing grounds for a search

1. A search without consent may only occur if the teacher believes there are reasonable grounds for suspecting that the pupil may have a prohibited item in their possession.
2. 'Reasonable Grounds' may be decided in each case by the teacher on the scene. This might be suspicious behaviour, a report from another pupil, or overhearing pupils talking.
3. With the Deputy Headmaster's permission, staff may view CCTV footage in order to make a decision as to whether to conduct a search for an item.

### Location of a search

Searches without consent may be carried out on School premises or elsewhere where the member of staff has lawful control or charge of the pupil, e.g. a sports match, school trip or visit.

### Searching with consent

School staff can search pupils with their consent for any item which is banned by the School Rules.

If a pupil is suspected of carrying an unauthorised item (for example cigarettes) the best approach is to ask him/her, in the presence of a second adult witness, to turn out his/her pockets or bag. If he/she refuses to cooperate, the School will have the option of sanctioning him/her as they would in any case where the pupil refused to obey.

If the pupil refuses, his/her housemaster/mistress should be informed immediately.

### Searching without consent

In addition to the general power to use reasonable force described above, the Headmaster or Deputy Headmaster (or any member of staff explicitly authorised by them at the time of the incident) can use such force as is reasonable given the circumstances to conduct a search for the following items prohibited under the 1996 Education Act:

- Knives and weapons
- Alcohol
- Illegal drugs
- Stolen items
- Tobacco and cigarette papers
- Fireworks
- Pornographic images
- Any article that has been used or is likely to be used to commit an offence, cause personal injury or damage to property

Force may not be used to search for other items banned under the school rules

Staff should make every effort, in the presence of a second adult witness, to persuade the pupil to hand over the prohibited item to staff voluntarily. However, prohibited items may be searched for without consent of the pupil as long as:

1. The member of staff conducting the search has the permission of the Headmaster or Deputy Headmaster
2. The member of staff conducting the search is the same sex as the pupil being searched
3. There is a member of staff (preferably of the same sex) present as a witness
4. There are reasonable grounds for suspecting that the pupil is in possession of a prohibited item

Whatever the pupil's response, staff should not in any search:

- Use excessive force (reasonable force may be used when conducting a search for knives or weapons, alcohol, illegal drugs, stolen items, tobacco, fireworks, pornographic images or articles that have been or could be used to commit an offence or cause harm).
- Require the pupil to remove any clothing – other than outer clothing (i.e. clothing not worn immediately against the skin or against underwear) - for the purpose of searching it.

### **Extent of the search**

Schools are able to search bags, rooms, lockers or desks for any item provided the pupil agrees. If the pupil does not consent then it is possible to conduct a search but only for the prohibited items listed above and only under the same conditions as 1-4 above.

If the pupil objects (which he/she has the right to do) staff should inform the pupil's housemaster/mistress immediately.

In such cases the pupil may then be told that the police will be called. The police may then conduct a search if they believe that a crime has been committed, or to prevent harm to themselves or others following an arrest.

At St John's any search of a pupil's locker/room in House should be carried out with both the pupil and the housemaster/mistress present (and another member of staff) and the Deputy Headmaster must have been informed in advance.

SHS at St John's may search pupils' belongings and personal areas (e.g. lockers) if they have reasonable grounds to do so.

SHS must observe the following guidelines:

1. Whether or not the item under search is high risk - such as a knife or drugs – School property should only be searched if the search is legitimate and has a reasonable prospect of success.
2. The extent and nature of the search should be proportionate to the value of or "risk factor" of the item sought (even in the case of stolen property). On this basis, it might well be reasonable to search the lockers of a handful of children, particularly if they consent to the procedure.
3. The extent of the search should also be proportionate to likelihood of the item being found. It is an invasion of privacy to search an entire house without good cause (e.g. for a very valuable or dangerous item).

### **After the search**

SHS should always contact the affected pupil's parents after any search, regardless of the outcome. A proper record should also be kept. However, neither of these are legal requirements.

If an illegal item is found as a result of the search (for example, drugs, a knife or a firearm) it should be handed to the police. In other cases, confiscated items should be returned to the pupil's parents, and should not be destroyed or kept by staff for their own use.

Complaints about searching should be dealt with through the normal school complaints procedure.

### **Training**

There is no legal requirement for a member of staff carrying out a search to receive training beforehand. However SHS have the responsibility of ensuring that all their house tutors are aware of, and understand, the guidelines set out in this document.

### **Victimisation**

As said, it is not necessary to search the belongings of every pupil in the house each time that an item goes missing or there is a suspicion of drugs use. Indeed, the extent of the search must be proportionate to the value of the lost item or the danger involved.

All staff must ensure that there are very good reasons for limiting their search to certain individuals. Targeting the 'usual suspects' could give rise to an allegation of bullying or victimisation.