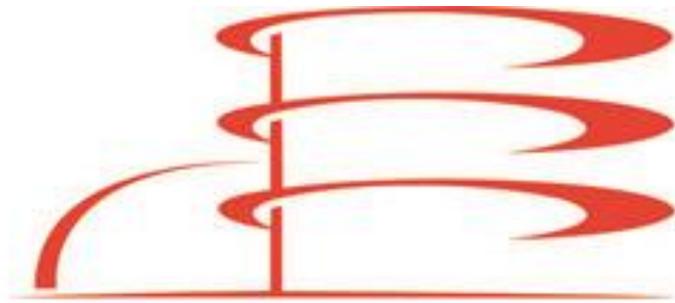


POLICY/PROCEDU



Bexhill 6th Form College

SEARCH AND WEAPONS POLICY

POLICY NUMBER: OC19

Reviewed November 2018

Vision Statement

‘Outstanding College, Outstanding Opportunities’

Mission

Bexhill College provides opportunity and educational excellence for the young people and the wider community of Rather and Hastings.

Purpose of the policy and procedures

The College will search students for weapons, drugs, alcohol, stolen property or other prohibited items if grounds for suspicion become evident. In addition, the College will undertake random searches in order to reinforce the message that students’ safety is our prime concern and that the carrying of any of these items will not be tolerated. This procedure covers the searching of Bexhill Sixth Form College students throughout the College premises. In addition, staff are within their rights to carry out searches other than on the College premises (e.g. a trip) as long as the staff member has lawful control or charge of the student. In the interests of security and safety it is a condition of enrolment that students comply with these College procedures.

It is a criminal offence under section 139A of the Criminal Justice Act 1988 to have a knife or offensive weapon on any educational premises. Personal Metal Detectors (PMD) and Security Arches (SA) may be used to ensure that offensive weapons are not brought into the College.

Searching students

The Principal, Senior Leadership Team and Property Manager are authorised by the Principal and have a statutory power to authorise searches of students (conducted by the Security Team) or their possessions, ***with or 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
- Stolen items
- drug paraphernalia
- Fireworks
- Pornographic images
- Any article that the member of staff reasonably suspects has been, or is likely to be, used:
 - To commit an offence,
 - To cause personal injury to, or damage to the property of, any person (including the students).

Security Team staff who may be called upon to carry out searches on students and their possessions have been trained to conduct them in a correct, thorough, systematic, safe and legal manner. Where there are reasonable grounds for suspicion, a student may be searched using the PMD/SA. Security will obtain authorisation from the Principal, Senior Leadership Team or Property Manager, prior to carrying out the search. The student must be informed as to the reason why the search is taking place

and should be reminded that, on enrolment, he/she consented to searches in accordance with this policy.

Confiscation

College staff can seize any prohibited item found as a result of a search. They can also seize any item, however found, which they consider a safeguarding risk.

The College's obligations under the European Convention on Human Rights (ECHR)

Under article 8 of the European Convention on Human Rights, students have the right to expect a reasonable level of personal privacy.

Screening Procedure

What the law allows:

- The College can require students to undergo screening by a Security Arches or Personal Metal Detectors 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 their duty as an employer to manage the safety of staff, students and visitors enables them to impose a requirement that students undergo screening.

If a student refuses to be screened, the College may refuse to have the student on the premises. Health and Safety legislation requires the College to be managed in a way which does not expose students or staff to risk 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 must comply with the rules to attend.

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

Searching with consent

The College's common law powers to search:

Whilst staff can search students **with their consent** for any item, all staff are required to gain authorisation from the Principal, Senior Leadership Team or Property Manager, prior to carrying out the search.

Note:

Colleges are not required to have formal written consent from the student for this sort of search – it is enough for the staff member to ask the student to turn out his or her pockets or if they can look in the student's bag or locker, and for the student to agree.

Searching without consent

The College can search for:

- Knives or weapons, alcohol, illegal drugs, drug paraphernalia and stolen items
- Fireworks and pornographic images

- Any article that the member of staff reasonably suspects has been, or is likely to be, used to commit an offence, or the cause personal injury to, or damage to property

The circumstances under which a search can be conducted

The person conducting the search must be the same sex as the student being searched; and there must be a witness (also a staff member) and, if at all possible, they should also be the same sex as the student being searched.

There is a limited exception to this rule. A search of a student of the opposite sex to the searcher can be carried out, and without a witness present, but **only** where it is reasonably believed that 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.

Establishing grounds for a search

The College can only undertake a search without consent from the student if they have reasonable grounds for suspecting that a student may have in his or her possession a prohibited item. Authorisation will be gained from the Principal, Senior Leadership Team or Property Manager, prior to carrying out the search but first 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 be suspicious.

The powers allow the College to search regardless of whether the student is found after the search to have that item.

The Property Manager and his team can view CCTV footage in order to make a decision as to whether to conduct a search for an item.

If the Principal, Senior Leadership Team, Property Manager or Security thinks it may be unsafe to carry out a search then the Police should be called, especially if they believe that a student or member of staff is at serious risk.

Location of a search

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. The powers only apply in England. Any search will be carried out in a non-public area if possible. This is not to say that searches cannot be conducted in public places but wherever possible a less public place should be selected.

Extent of the search – clothes, possessions, desks and lockers

What the law says:

- 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. 'Outer clothing' includes hats; shoes; boots; gloves and scarves.
- Students may be asked to show the inside of their waist belts or remove socks.

- 'Possessions' means any goods over which the student has or appears to have control – this includes desks, 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.

Note:

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.

Lockers

Under common law powers, the College is able to search lockers for any item provided the student agrees, The College can also make it a condition of having a locker that the student consents to have these searched for any item whether or not the student is present. If a student does not consent to a search then it is possible to conduct a search without consent but only for the 'prohibited items' listed above.

Use of force

Members of staff can use each such force as is reasonable given the circumstances when conducting a search for knives or weapons, alcohol, illegal drugs, stolen items, fireworks, pornographic images or articles that have been or could be used to commit an offence or cause harm.

The power to seize and confiscate items – general

If the Personal Metal Detector or Security Arches activates during a check, the student will be asked to empty their pockets and bags. If a suspected offensive weapon is found, staff will seize it and will initiate disciplinary procedures. If the items detected are not offensive, then the individual will be thanked for their co-operation, reminded of the security reasons for the procedure and allowed to carry on about their normal business. This may be the case when a student is found to be carrying art and craft implements, which may only be carried when required for a lesson and must be carried out of sight and in a bag until required. If at all possible, the College should provide such implements to avoid the need for students to have to carry them.

If an offensive weapon, alcohol, drugs, suspected stolen goods or potential evidence in relation to a case are found, they should be seized and retained. If in doubt, the College should seize the item, and then return it later if it becomes apparent that no further action will ensue. If a student is found carrying an offensive weapon, controlled drugs or suspected stolen property, then the College may involve the Police and the items should be delivered to the Police as soon as is reasonably practicable. The student will be suspected, pending a disciplinary hearing.

What the law allows:

The College's general power to discipline, as set out in 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.

Note:

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. Where any article is thought to be a weapon it must be passed to the Police.

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.

Items found as a result of a 'without consent' search

What the law says:

A person carrying out a search can seize anything they have reasonable grounds for suspecting is a prohibited item or is evidence in relation to an offence.

- Where a person conducting a search finds **alcohol**, they may retain or dispose of it. This means that the College can dispose of alcohol as they think appropriate but this should not include returning it to the student.
- Where they find **controlled drugs**, these must be delivered to the Police as soon as possible.
- Where staff suspect a substance may be controlled they should treat them as controlled drugs as outlined above.
- Where they find **stolen items**, these must be delivered to the Police as soon as reasonably practicable – but may be returned to the owner (or may be retained or disposed of if returning them to their owner is not practicable) if the person thinks that there is a good reason to do so.
- **Fireworks** found as a result of a search may be retained or disposed of but should not be returned to student.
- If a member of staff finds a **pornographic image**, they may dispose of the image unless its possession constitutes a specified offence (i.e. it is extreme or child pornography) in which case it must be delivered to the Police as soon as reasonably practicable. Images found on mobile phone or other electronic device can be deleted unless it is necessary to pass them to the Police.
- Where an **article that has been (or could be) used to commit an offence or to cause personal injury or damage to property** is found it may be delivered to the Police or returned to the owner. It may also be retained or disposed of.
- Any **weapons or items which are evidence of an offence** must be passed to the Police as soon as possible.

Statutory guidance on the disposal of controlled drugs and stolen items

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 should take into account all relevant circumstances and use their professional judgement to determine whether they can safely dispose of a seized article. These decisions should be logged on the search record.

Where 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.

With regard to stolen items, it would not be reasonable or desirable to involve the Police in dealing with low value items. However, College staff may judge it appropriate to contact the Police if the items are valuable (e.g. phones/laptops) or illegal (e.g. alcohol/fireworks).

Statutory guidance for dealing with electronic devices

Where the person conducting the search finds **an electronic device** they may examine any data or files on the device if they think there is a good reason to do so. Following an examination, if the staff member has decided to return the device to the owner, or to retain or dispose of it, they may erase any data or files, if they think there is a good reason to do so.

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**:

The staff member must reasonably suspect that the data or file on device in question has been, or could be, used to cause harm, to disrupt teaching or break the College rules.

If inappropriate material is found on the device it is up to the staff member to decide whether they should **delete** that material, **retain** it as evidence (of a criminal offence or a breach of College discipline) or whether the material is of such seriousness that it requires the involvement of the Police.

Telling parents and dealing with complaints

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

The College should 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.

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

Exemptions

No students are exempt from compliance with this procedure.

Record keeping

There is no legal requirement to make or keep a record of a search. However, in order to demonstrate the correct procedure has been adhered to, the College will keep a log of all details of the search as soon as possible. The records of completed searches will be held in line with the student personal file.

The record should include:

- Name, year, sex and ethnicity of student searched
- Grounds of suspicion
- Time and place
- Who carried out the search
- Who else was present
- What, if any, reasonable force was used and why
- How the search began and progressed
- Students responses and how staff managed them (e.g. calming a student)
- Outcomes and follow-up actions.

Review

The search protocol will be reviewed every 3 years, or whenever the need arises, for example, due to a change in legislation.