



SURBITON

HIGH SCHOOL

Searches and Confiscation of Property

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Surbiton High School: Ethos and Aims

Ethos

- We are a vibrant learning community, which **inspires** every child to discover and embrace their individuality, to grow in their intellectual curiosity, and to enjoy their independence
- We acknowledge that there is no such thing as a typical Surbiton High School pupil and that impressive academic results are just one aspect in our rich tapestry of educational provision; therefore, we **encourage** every child to grow in compassion, respect and an outward looking attitude, living out the School's motto: *Amor nos semper ducat (May love always lead us)*
- We **empower** every child to thrive, developing social and emotional intelligence to become rounded and grounded in their character, demonstrating kindness and service to others

Aims

- Surbiton High School aims to **inspire, encourage and empower** our young people to discover and liberate the very best of themselves, exceeding their potential in an intellectually rigorous and challenging academic environment, balanced with outstanding pastoral care and support

We achieve these aims through our *Charter for Happiness and Well-being*. Our children:

- are **inspired** to deploy their highest strengths to tackle all situations, developing a growth mind-set and a can-do attitude, equipped with the tools to maximise their positive emotions
- are **encouraged** to find their niche, to be fully engaged in educational activities and to meet the highest challenges that come their way
- are coached and **encouraged** to develop strong relationships, to be empathetic and responsive to the needs of themselves and others
- are **empowered** to lead a meaningful life, to be able to understand what their goals are and to know what they are striving for
- are **empowered** to draw strength from celebrating their accomplishments, in order to tackle new challenges

We achieve these aims through our inculcation of *Learning Habits*. Our children:

- are **inspired** in their thinking, to ask questions, to make connections, to imagine possibilities, to reason methodically and to capitalise on their resources
- are **encouraged** to be emotionally invested in their learning, persevering in the face of difficulties, noticing subtle differences and patterns, managing their distractions, and becoming absorbed in their learning
- are **empowered** to be fully involved in their learning, growing in interdependence, collaborating effectively, listening empathetically to others, and imitating their learning habits



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- are **inspired, encouraged** and **empowered** to be productive, planning their learning in advance, revising and reviewing their progress, distilling important information, and developing their own meta-learning

United Learning and the United Church Schools' Trust

Surbiton High School is part of *United Learning* and the *United Church Schools' Trust*. The School has an Anglican foundation, valuing its Christian heritage whilst welcoming staff and children from all faiths and none. We share with United Learning its core mission statement "to bring out the best in everyone". We are committed to the aims of United Learning, including its *Framework for Excellence*, which can be found at: www.unitedlearning.org.uk

1 Policy Statement

Surbiton High School is committed to safeguarding and promoting the welfare of the members of its community. Accordingly, there may be occasions when it becomes necessary to search the person, the belongings or the room of a pupil. This policy sets out the circumstances in which such searches can be carried out and the means by which it should be done, in accordance with the Education and Inspections Act 2006 and 'Searching, screening and confiscation - Advice for Schools' (Department for Education, January 2018).

Only a member of SLT, a Head of Year, or a trip leader acting under the authority of a member of the SLT, should administer a search of a pupil's person or possessions. In all circumstances, the consent of the pupil to any search should be requested. A second adult witness should always be present.

This policy and procedures also apply on authorised School trips.

Incident reports must be submitted about any such search to the Principal, Senior Vice-Principal or Head of School, listing all the main details. The affected pupil's parents should always be contacted after any search, regardless of the outcome.

In the general course of school life at Surbiton High, given pupils' good conduct overall and taking into account the very good relationships between pupils and staff, it is unlikely that searching pupils will be necessary. There are, however, some occasions when it might be; at those times, this policy should be followed.

Surbiton High School seeks to implement this policy through adherence to the procedures set out in the rest of this document.

This policy applies to all members of our School community, including those in our EYFS setting. Surbiton High School is fully committed to ensuring that the application of this Policy is non-



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discriminatory in line with the UK Equality Act (2010). Further details are available in the School's Equal Opportunity Policy document.

This policy is available to relevant parties in accordance with our statement on the provision of information.

This policy is reviewed annually by Matthew Close, Senior Vice-Principal, or as events or legislation require. The next scheduled date for review is March 2022.

2 Searching

School staff can search a pupil for any item if the pupil agrees.

The Principal and staff authorised by her have a statutory power to search pupils or their possessions, without consent, where they have reasonable grounds for suspecting that the pupil may have a prohibited item. Prohibited items are:

- knives or weapons
- alcohol
- illegal drugs
- stolen items
- tobacco and cigarette papers
- fireworks
- pornographic images
- any article that the 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 to the property of, any person (including the pupil).

The Principal and authorised staff can also search for any item banned by the School rules which has been identified in the rules as an item which may be searched for.

2.1 Searching with consent

2.1.1 Schools' common law powers to search:

- School staff can search pupils with their consent¹ for any item.
- The School is not required to have formal written consent from the pupil for this sort of search – it is enough for the teacher to ask the pupil to turn out his or her pockets or if the teacher can look in the pupil's bag or locker and for the pupil to agree.

¹ The ability to give consent may be influenced by the child's age or other factors.



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- If a member of staff suspects a pupil has a banned item in his/her possession, staff can instruct the pupil to turn out his or her pockets or bag and if the pupil refuses, the teacher can apply an appropriate punishment as set out in the School's behaviour policy.
- A pupil refusing to co-operate with such a search raises the same kind of issues as where a pupil refuses to stay in a detention or refuses to stop any other unacceptable behaviour when instructed by a member of staff – in such circumstances, the School will apply an appropriate disciplinary penalty.

2.2 Searching without consent

The School will always attempt to seek consent from pupils before undertaking any search.

However, common law allows the School to search for the following without consent:

- Knives or weapons, alcohol, illegal drugs and stolen items; and
- Tobacco and cigarette papers, fireworks and pornographic images; and
- Any article that the member of staff reasonably suspects has been, or is likely to be, used to commit an offence, or to cause personal injury, or damage to property; and
- Any item banned by the School rules which has been identified in the rules as an item which may be searched for.

2.3 Undertaking Searches

• Searches will always be undertaken by a member of staff of the same sex as the pupil being searched; and there must be a witness (also a staff member) and, if possible, they should be the same sex as the pupil being searched.

• There is a limited exception to this rule. Members of the Senior Leadership Team, or those with delegated responsibility, can carry out a search of a pupil of the opposite sex to and / or 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 search is not conducted immediately and where it is not reasonably practicable to summon another member of staff.

2.4 Establishing grounds for a search

• A member of staff can only undertake a search without consent if there are reasonable grounds for suspecting that a pupil may have in his or her possession a prohibited item. The person conducting the search must decide in each particular case what constitutes reasonable grounds for suspicion. For example, they may have heard other pupils talking about the item or they might notice a pupil behaving in a way that causes them to suspect that the pupil is concealing a prohibited item.

• In the exceptional circumstances when it is necessary to conduct a search of a pupil of the opposite sex or in the absence of a witness, the member of staff conducting the search must bear in mind that a pupil's expectation of privacy increases as they get older.



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- The powers allow School staff to search regardless of whether the pupil is found after the search to have that item. This includes circumstances where staff suspect a pupil of having items such as illegal drugs or stolen property which are later found not to be illegal or stolen.
- Where appropriate, the School staff may will consider utilising CCTV footage in order to make a decision as to whether to conduct a search for an item.

2.5 Location of a search

- Searches without consent can only be carried out on the School premises or, if elsewhere, where the member of staff has lawful control or charge of the pupil, for example on School trips in England or in training settings.
- The powers only apply in England.

2.6 During the search

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

What the law says:

- The person conducting the search may not require the pupil 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.
- ‘Possessions’ means any goods over which the pupil has or appears to have control – this includes desks, lockers and bags.
- A pupil’s possessions can only be searched in the presence of the pupil 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.

Also 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.



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2.6.2 Lockers and desks

- Under common law powers, schools are able to search lockers and desks for any item provided the pupil agrees. Schools can also make it a condition of having a locker or desk that the pupil consents to have these searched for any item whether or not the pupil is present.
- If a pupil 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” as previously listed.

2.6.3. Use of force

- Members of staff can use such force as is reasonable given the circumstances when conducting a search 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. Such force cannot be used to search for items banned under the School rules.
- Separate advice is available on teachers’ power to use force – see Physical Restraint (Use of Reasonable Force) policy.

3 After the search

3.1 The power to seize and confiscate items – general

- The School’s general power to discipline, as circumscribed by Section 91 of the Education and Inspections Act 2006, enables a member of staff to confiscate, retain or dispose of a pupil’s property as a disciplinary penalty, where reasonable to do so.
- The decision to confiscate a pupil’s property will be made by a member of the Senior Leadership Team, Head of Year or delegated member of staff. 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 reasonably suspected to be an offensive weapon, it should be handed to the Principal, Senior Vice-Principal or Head of School, who will then pass it on to the police.

3.2 Items found as a result of a ‘without consent’ search

- The member of staff carrying out the search can seize anything they have reasonable grounds for suspecting is a prohibited item or is evidence in relation to an offence.
- Where the person conducting a search finds alcohol, they must pass it on to the Principal, Senior Vice-Principal or Head of School, who will dispose of it. It will not be returned to the pupil.



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- Where controlled drugs are discovered, these must be handed to the Principal, Senior Vice-Principal or Head of School who will pass them on to the police as soon as possible.
- Where other substances which are not believed to be controlled drugs are discovered these should be handed to the Principal, Senior Vice-Principal or Head of School. 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 stolen items are discovered, the Principal, Senior Vice-Principal or Head of School will deliver them to the police as soon as reasonably unless there is good reason not to do so.

- Where a member of staff finds **tobacco, cigarette papers or e-cigarettes, fireworks** they must be handed to the Principal, Senior Vice-Principal or Head of School who will dispose of them. They will not be returned to the pupil.
- If a member of staff finds a **pornographic image, this must be treated as a Safeguarding issue. Staff should follow the appropriate safeguarding procedure.** Note: The School may dispose of the image unless there are reasonable grounds to suspect that its possession constitutes a specified offence (i.e. it is extreme or child pornography) in which case the Senior Vice-Principal or a Safeguarding Officer will deliver it to the police as soon as reasonably practicable.
- 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 is found, the Principal, Senior Vice-Principal or Head of School will decide if it will be delivered to the police or returned to the owner. It may also be retained or disposed of.
- Where a member of staff finds **an item which is banned under the School rules** they should take into account all relevant circumstances and use their professional judgement to decide whether to return it to its owner, retain it or dispose of it.
- Any **weapons or items which are evidence of an offence** must be passed to the Principal, Senior Vice-Principal or Head of School, who will pass it on to the police as soon as possible.

3.3 Statutory guidance on the disposal of controlled drugs and stolen items

- Only the Principal, Senior Vice-Principal or Head of School shall decide whether there is a good reason not to deliver stolen items or controlled drugs to the police. In determining what is a "good reason" for not delivering controlled drugs or stolen items to the police they will have regard to the following guidance issued by the Secretary of State:
 - In determining what is a 'good reason' for not delivering controlled drugs or stolen items to the police, 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.
- 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.



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- With regard to stolen items, it would not be reasonable or desirable to involve the police in dealing with low value items such as pencil cases.

4. Confiscation

- School 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 School discipline.

4.1 Schools' obligations under the European Convention on Human Rights (ECHR)

- Under article 8 of the European Convention on Human Rights, pupils have a right to respect for their private life. In the context of these particular powers, this means that pupils 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 school (or any public body) must be justified and proportionate.
- The powers to search in the Education Act 1996 are compatible with Article 8. A school exercising those powers lawfully should have no difficulty in demonstrating that it has also acted in accordance with Article 8. This advice will assist schools in deciding how to exercise the searching powers in a lawful way.

5. Screening

5.1 What the law allows:

- The School can require pupils 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 pupils.
- Any member of School staff can screen pupils.
- If a pupil refuses to be screened, the School may refuse to have the pupil on the premises.
- If a pupil fails to comply, and the School does not let the pupil in, the School has not excluded the pupil and the pupil's absence should be treated as unauthorised. The pupil 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.



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6. Searches of electronic devices

Searches of electronic devices will be undertaken by the Principal, Senior Vice-Principal or Head of School, or those with delegated responsibility.

Where the person conducting the search finds an electronic device that is prohibited by the School 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 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 School 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 School rules.
- If an electronic device that is prohibited by the School 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 give the device to the police as soon as it is reasonably practicable. 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, should not be deleted prior to giving the device to the police.⁴
- 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 School discipline.
- Where appropriate, Parents will be informed when such a search has been undertaken, irrespective of whether or not any further action is to be taken.



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7. School Trips

This Policy on searches of pupils and their belongings applies at all times, irrespective of whether the pupil is at the School or on a non-residential, or residential, trip, outside of Surbiton High School.

- There may therefore be occasion to carry out a search on a School trip.
- If this occasion arises, the adult in charge of the trip should make an effort to contact the SLT Duty Officer responsible for supporting the trip or visit, to obtain authorisation. If this proves impossible and the circumstances are such as to make a search necessary, the adult in charge is empowered to carry out such a search, following all the above procedures.
- Full notes must be kept, and an incident report submitted in due course.

8. Document Information

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