



# The WASP Centre

## Searching, Screening and Confiscation (SSC) Policy

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## 1. Introduction

The Education and Inspections Act 2006 and the Violent Crime Reduction Act 2006 give school's extra powers to screen and/or search students. These are in addition to the common law power to search students and confiscate items. The WASP Centre has drawn on this information and guidance in conjunction with ongoing research and the changing climate of violent crime associated with students referred to WASP to execute this policy when required.

## 2. Purpose

The overall purpose of this policy is to detail the code of conduct, statutory requirements and legal obligations of the powers of searching, screening and confiscation; to enable The WASP Centre to achieve and sustain a safe, proactive and orderly working environment.

This policy provides a simple framework indicating the procedures necessary for searching, screening and confiscating prohibited items.

This policy is available on the school website, the shared staff area and on request from the Head teacher or the Centre Manager in hard copy format. It should be read in conjunction with the following policies:

- Child Protection and Safeguarding Policy
- Behaviour Policy
- Restrictive Physical Intervention (RPI) Policy
- Online Safety Policy
- Complaints Policy
- DfE Searching, Screening and Confiscation advice/guidance

## 3. Key Statutory Powers

### 3.1 Searching with consent

Under common law staff have the power to search students **with** their verbal consent for any item. (*the ability to give consent may be influenced by the child's age or other factors*)

- Schools are not required to have formal written consent from the students for this sort of search
- Schools should make clear in their school behaviour policy and in communications to parents and students what items are banned.
- 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 school's behaviour policy.
- 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, schools can apply an appropriate disciplinary penalty.

### 3.2 Searching without consent

Headteachers and staff authorised by them, have a statutory power to search students or their possessions, without consent, where that have reasonable grounds for suspecting that the student may have a prohibited.

Prohibited items are:

- knives or weapons
- alcohol
- illegal drugs
- stolen items
- 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 student).

Headteachers 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.

### 3.3 Screening

What the law allows:

- Schools 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 having a weapon and without consent of the student.
- Schools statutory power to make rules on student behaviour and their duty as an employer to manage safety of staff, students and visitors enables them to impose a requirement that students undergo screening.
- Any member of school staff can screen pupils.

Also note:

- If a student refuses to be screened, the school may refuse to have the students on the premises. Health and safety legislation requires a school to be 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 school does not let the student in, the school has not excluded the student and the students' absence should be treated as unauthorised. The student should comply with the rules and attend.
- This type of screening, without physical contact is not the same condition as apply to the powers to search without consent.

### 3.4 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. The WASP Centre's obligations under the European Convention on Human Rights (ECHR)

Under article 8 of the ECHR, students 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, Searching & Confiscation (SSC) at The WASP Centre

Due to the heightened risks relating to young people and violent crime associated within our setting; the Board of Trustees alongside input from senior leaders have amplified the SSC procedures at WASP to manage the safety of staff, students, and visitors. There is a requirement that all students undergo screening on entry to any site/provision. The Headteacher has authorised all members of the staff to use powers to screen students **without** their consent.

### **5.1 Prohibited/Banned items at The WASP Centre**

The following items are prohibited/banned from entering The WASP Centre:

- Weapons of any kind – knives, blades, shanks, catapults, firearms etc.
- Ammunition of any kind – bullets, ball-bearings etc.
- Any mood-altering substances – including alcohol or any form of illegal drug, legal high or prescription medication (excluding personal prescription prescribed by a doctor labelled and in original packaging)
- Drug paraphernalia – pipes, baggies, grinders etc.
- Fireworks and any other pyrotechnic
- Stolen goods/items
- Pornographic material
- Discriminatory material
- Mobile phones (*within lesson time*)
- 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 student).

### **5.2 Non-prohibited/banned items that may arouse suspicion/concern**

There may be occasions where a student is in possession of an item that is not on the list of item prohibited by law, or banned by the setting however, it may arouse suspicion/concern; that an offence may have or could be committed e.g. excessive amounts of money. In the event a student is found to have an item of suspicion/concern in their possession, staff have the right to question the student to ascertain the reason this item is being carried. In the event the student is either unwilling or their reason is not credible, staff should inform a member of the safeguarding team who will endeavour to make contact with a parent/carer to establish a reason for said item to be in their child's possession.

### **5.3 Processes for screening and searching with consent process on entry to The WASP Centre**

On entry to the building students are greeted by two members of staff and the following procedure will commence:

- Students are handed their individual ID pass and sign into the VPass system
- Students place all personal items into a tray to be screened by a member of staff. If a student is in possession of a bag, staff will source consent to search its contents.
- Students will then walk through the 'walk-through' metal detector. The second member of staff will monitor the detector display for sensitivity.
- If no sensitivity is detected student's phones are returned and staff will escort said student into the main building.
- In the event the detector indicates a sensitivity the student will be asked to walk back through for a manual hand-held metal detector screening in view of a CCTV camera.
- Once staff are confident that no prohibited/banned items are on the students' person, students' phones are returned and staff will escort said student into the main building.
- All students' personal items, bar their mobile phones, are then secured behind reception which is continuously staffed.

On the occasion a student refuses to be screened a member of the SLT or the SGT can refuse to have the student on the premises. If this scenario transpires the student has not been excluded however, parent/carers will be informed that the students absence will be treated as unauthorised. Staff will emphasise to students that they should comply with the rules and their attendance should be a priority.

On the occasion a student is found to have a prohibited/banned item in their possession a member of the SLT must be notified and the power to seize or confiscate adhered to.

#### 5.4 Searching without consent within The WASP Centre

If a staff member becomes aware that a student has one or more of the above prohibited/banned items with them, they should immediately report the issue to a member of SLT, who must take appropriate action. Members of staff can use such force as is reasonable given the circumstances when conducting a search for all prohibited items. Such force cannot be used to search for additional items banned under the school rules.

Appropriate actions are as follows:

- Only members of SLT are permitted to carry out searches without student consent.
- Staff must be the same sex as the student being searched.
- A witness (also a staff member) and, if possible the same sex must be present. *There is a limited exception to this rule. You can carry out a search of a student of the opposite sex to you and/or 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 a search immediately and where it is not reasonably practicable to summon another member of staff.*
- The search must be carried out in full view of CCTV.
- Students are required to remove any outer clothing. *(not worn next to the skin or immediately over a garment that is being worn as underwear)*
- A students' possessions may only be searched in the presence of the student, 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. *(‘Possessions’ means any goods over which the which the student has or appears to have control)*

If the student refuses to engage or the member of SLT feels that there is any danger to any student or member of staff, they should immediately inform the police.

#### 6. The power to seize and confiscate at The WASP Centre

The 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 student's property as a disciplinary penalty, where reasonable to do so.

Members of SLT 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 must be passed to the police.

##### 6.1 Items found as a result of a ‘without consent’ search

What the law says:

- A member of staff 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 member of staff conducting a search finds alcohol, they may retain or dispose of it. This means that schools 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 but may be disposed of if the person 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. 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**, 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 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 it must be delivered 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 it may 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 police as soon as possible.
- Where the member of staff conducting the search finds an electronic device 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.
- If an electronic device 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.
- 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.

## 7. Recording, reporting and monitoring

The WASP Centre is not required to inform parent/carers prior to a search taking place or to seek their consent to search their child. There is neither a legal requirement to make or keep a record of a search. However, in the event a prohibited/banned item being discovered a 'My Concern' and 'Incident Log' should be completed and submitted detailing all necessary information regarding the items discovered and actions taken. This data will be used by the SLT to determine 'risk rating bands' for Individual Student Behaviour Risk Assessments (ISBRA).

The discovery of prohibited/banned items should always be reported to parents/carers and any other relevant professionals, though there is no legal requirement to do so.