



UT VOCE ITA VITA

# EXETER CATHEDRAL SCHOOL

Nursery | Pre-Prep | Prep

## ARRANGEMENTS FOR SEARCHING PUPILS AND THEIR POSSESSIONS

**Status:** non-contractual

**Governor Oversight:** pastoral sub-committee

**Updated:** April 2018

**Review:** September 2019 (or as #9)

### 1 Scope

1.1 **Application:** The policy relates to the searching for, retention and disposal of items that have been confiscated in accordance with the School Rules, the School's behaviour and discipline policy, the Acceptable Use of ICT policy, the Guidelines for Mobile Device use (pupils), and the Anti Bullying policy. The policy applies wherever pupils are in the care of the school, including on school trips or in training settings. It applies across the age-range of pupils (including, where appropriate, and in accordance with EYFS guidelines, in the School's EYFS) and to day and boarding pupils.

1.2 **Legal Framework.** All schools have a general power to impose reasonable and proportionate disciplinary measures (Education and Inspections Act 2006). This enables a member of staff to confiscate, retain or dispose of a pupil's property as a disciplinary penalty where it is reasonable to do so. This policy also has regard to guidance published by the Department for Education (DfE), "Searching, screening and confiscation: Advice for Headteachers, School Staff and Governing Bodies" February 2014.

1.3 **Confiscation:** confiscation may take place:

- When an item is used during a lesson,
- When an item is found on school premises or on a school trip or
- When an item is found following a search of the pupil, including a search of a pupil's locker or possessions

### 2 Aims

2.1 **Safety and Welfare:** The central aim of this policy is to enable the School to carry out its duties to safeguard and promote the welfare of children by ensuring that dangerous, illegal or disruptive items are removed from pupils and disposed of safely and lawfully.

2.2 **Communication:** This policy also aims to ensure that the pupils and parents understand what will happen to items confiscated by staff and to discourage pupils from bringing such items into school or on school trips.

### 3 Prohibited and Banned items

3.1 **Prohibited items:** The following are "prohibited items" under Section 550ZA(3) of the Education Act 1996 and Regulation 3 of the Schools (Specification and Disposal of Articles) Regulations 2012:

- Knives or weapons
- Alcohol
- Illegal drugs

- Stolen items
- Tobacco and cigarette papers
- Fireworks
- Pornographic images
- Any article that a member of staff reasonably suspects has been, or is likely to be, used to commit a criminal offence or cause personal injury to or damage to the property of any person (including the pupil).

3.2 **Banned items:** The School rules may also state that other items that are reasonably believed to be likely to cause harm or disruption are "banned". This means that pupils must not have these items in their possession on school premises or at any time when they are in the lawful charge and control of the school (for example on a school trip). This includes boarders, unless otherwise stated.

#### 4 Searching Generally

4.1 School staff may search pupils, including their locker or possessions:

- With the pupil's consent - for any item; and
- Without the pupil's consent - for prohibited or certain banned items subject to the constraints set out in section 5 below.

4.2 **Consent.** Where appropriate, and where timing allows, and particularly where the School considers that a pupil is not of sufficient maturity and understanding to give informed consent to a search, parental consent should also be obtained. In the case of boarders, this applies as far as is reasonably practicable. In their capacity *in loco parentis*, the Houseparent may give consent (but not to their own request), or another boarding staff member if the request comes from the Houseparent. Formal written consent is not required – it is sufficient for a member of staff to ask the pupil to turn out their pockets or if they can look in the pupil's bag or locker and for the pupil (or parent as appropriate) to agree.

Before any search is undertaken, the pupil (and parent where appropriate) will usually be asked to consent. In seeking consent, any special needs the pupil may have will be taken into account.

4.3 If a member of staff suspects that a pupil has an item that is **banned** by school rules, they can instruct the pupil to turn out his or her pockets or bag. If the pupil refuses, staff can impose an appropriate punishment as set out in the Behaviour and Discipline Policy. This matter will then be communicated to the Head of Section and the parents/guardians.

4.4 Searches will be carried out only on school premises or, if elsewhere, where the member of staff has lawful control or charge of the pupil, for example on a school trip or in training settings.

4.5 When pupils travel outside **England** on a school trip, they (including their property) may not be searched without consent.

4.6 If there is a conflict between consent not being given by a pupil but being given by their parent/guardian, professional judgement must be used. The general principle is that a child who is in Year 7 or above and mature enough to make an informed decision is considered to be 'Gillick competent': outside of this scenario, a parent's/guardian's consent will 'over-rule' the non-consent of a pupil. Where a conflict of consent arises between a Gillick competent pupil and their parent/guardian – and where there is no threat of danger/criminal activity - the matter should be referred to the Headmaster or the Assistant Head.

4.6 **Procedure for Searching:** If it is believed that a pupil has a banned or prohibited item, it may be appropriate for a member of staff to carry out:

- a search of outer clothing; and / or
- a search of school property, e.g. pupils' lockers or desks; and / or

- a search of personal property (e.g. bag or pencil case within a locker).

Searches will be conducted in such a manner as to minimise embarrassment or distress. Any search of a pupil or their possessions will be carried out in the presence of the pupil and another member of staff.

Where a pupil is searched, the member of staff conducting the search and the second member of staff present will usually be the same gender as the pupil. However, this may not be the case where it is reasonably believed that serious harm will be caused if the search is not carried out immediately and it is not reasonably practicable to summon another member of staff. This applies for boarders and day pupils.

## **5 Searching for prohibited or certain banned items**

**5.1 Authorised staff:** The Headmaster has authorised the following staff to carry out searches without pupil consent and to retain or dispose of items in accordance with this policy:

Headmaster  
Assistant Head  
Head of Upper Years  
Head of Lower Years  
Head of Pre-Prep  
Head of Nursery  
Houseparent  
and  
Trip Leaders

5.2 Where the Headmaster or an authorised member of staff have reasonable grounds to suspect that a pupil may have a **prohibited** item, consent is not required and the search will be carried out using reasonable force where appropriate.

5.3 Where the Headmaster, or staff authorised by the Headmaster, find anything which they have reasonable grounds for suspecting is a prohibited item, they may seize, retain and dispose of that item in accordance with paragraph 7 of this policy.

## **6 Searching electronic devices**

6.1 **Electronic devices:** An electronic device such as a mobile phone or a tablet computer may be confiscated in appropriate circumstances in accordance with this policy. If there is good reason to suspect that the device has been, or could be used to cause harm, to disrupt teaching or break school rules (including the Acceptable Use of IT policy and the Guidelines for Mobile Device Use (pupils), any data or files on the device may be searched and, where appropriate, data or files may be erased before the device is returned to its owner. Again, any data or files will only be erased if there is good reason to suspect that the data or files have been, or could be, used to cause harm, to disrupt teaching or break school rules.

6.2 If inappropriate material is found on an electronic device, the member of staff may delete the material, retain it as evidence of a breach of School discipline or criminal offence or hand it over to the police in accordance with paragraph 7.7 below.

## **7 Disposal of confiscated items**

7.1 **Alcohol:** alcohol which has been confiscated will be destroyed.

7.2 **Controlled drugs** will usually be delivered to the police as soon as possible. In exceptional circumstances and at the discretion of a senior member of staff, the drugs may be destroyed without the involvement of the police if there is good reason to do so. All relevant circumstances will be taken into account and staff will use professional judgement to determine whether the items can be safely disposed of. They will not be returned to the pupil.

7.3 **Other substances** which are not believed to be controlled drugs but which are harmful or detrimental to good order and discipline (for example "legal highs") may be confiscated and destroyed. Where it is not clear whether or not the substance seized is a controlled drug, it will be treated as though it is controlled and disposed of as above.

7.4 **Stolen items** will usually be delivered to the police as soon as possible. However, if, in the opinion of a senior member of staff, there is good reason to do so, stolen items may be returned to the owner without the involvement of the police. This is likely to apply to items of low value such as pencil cases.

7.5 **Tobacco or cigarette papers** will be destroyed.

7.6 **Fireworks** will be passed to the School's Health and Safety Officer (the Bursar) for safe storage and disposal. They will not be returned to the pupil.

7.7 **Pornographic images** : Pornographic images involving children or images that constitute "extreme pornography" under section 63 of the Criminal Justice and Immigration Act 2008 will be handed to the police as soon as practicable. Because possession of such images may indicate that the pupil has been abused, the School's Designated Safeguarding Lead will also be notified and will decide whether to make a referral to Devon Local Authority children's social care.

Other pornographic images will also be discussed with the Designated Safeguarding Lead. The images may then be passed to Devon Local Authority children's social care for consideration of any further action. If no action is to be taken by the local authority the images will be erased after a note has been made for disciplinary purposes, confirming the nature of the material.

7.8 **An article that has been (or could be) used to commit an offence or to cause personal injury or damage to property** may, at the discretion of a senior member of staff taking all the circumstances into account, be delivered to the police, returned to the owner, retained or disposed of.

7.9 **Weapons or items which are evidence of an offence** must be passed to the police as soon as possible.

7.10 **An item banned under school rules** may, at the discretion of a member of staff taking all the circumstances into account, be returned to its owner, retained or disposed of. Where staff confiscate an electronic device that has been used in breach of school rules to disrupt teaching, the device will be kept safely until the end of the school day when it can be claimed by its owner. If a pupil persists in using an electronic device in breach of school rules, it will be confiscated and must be collected by a parent or carer.

7.11 **Electronic devices used to carry out cyberbullying**: If it is found that a mobile phone, laptop or tablet computer or any other electronic device has been used to carry out cyberbullying, the device will be confiscated and may be used as evidence in disciplinary proceedings. Once the proceedings have been concluded the device must be collected by a parent or carer and the pupil may be prohibited from bringing such a device onto school premises or on school trips. In serious cases, the device may be handed to the police for investigation.

7.12 **Legal liability**: the School will take reasonable care of any items confiscated from pupils and which are not to be disposed of as set out above. However, unless negligent or guilty of some other wrongdoing causing injury, loss or damage, the School does not accept responsibility for loss or damage to property.

## **8 Communication with parents**

8.1 **The School aims to work with parents**: there is no legal requirement for the School to inform parents before a search for prohibited items takes place or to seek their consent to search their child and it will not generally be practicable to do so.

However, parents will be informed of any search that takes place and provided with details of any items that have been found. In appropriate cases the School will consult parents on how certain items should be disposed of.

Where the School considers that a pupil is not of sufficient maturity and understanding to give informed consent to a search for banned items, parental consent, which may be verbal, will be obtained.

**8.2 Keeping a record:** The School will keep a record of searches carried out which can be inspected by the parents of the pupil(s) involved subject to any restrictions under the Data Protection Act 1998 and/or GDPR 2018. The record will include details of the disposal of items confiscated.

**8.3 Complaints:** The School hopes that parents/guardians will not wish to complain about searching or confiscation. However, complaints about searching or confiscation will be dealt with through the School's Complaints Procedure. A copy of the procedure is posted on the School website and hard copies are available from the School office on request.

## **9 Monitoring**

This policy will be reviewed:

- Following any serious incident involving pupils and banned or prohibited items
- Following the issue of any new guidance from the Department for Education (DfE); and
- In any event, every year.