



Ripon Grammar School

Searching, Screening and Confiscation Policy

The following documents have been used in devising this policy:

- Department of Education Searching, screening and confiscation - Advice for headteachers, school staff and governing bodies (January 2018)
- 'Conducting a search of a student's room, belongings or person' - A Briefing Paper for the Boarding Schools' Association prepared by Farrer & Co.No. 15 September 2015
- "A person who does not have parental responsibility but has the care of the child may do what is reasonable in all the circumstances for the purpose of safeguarding the child's welfare" S.3 (5) of the Children Act 1989

Key Points taken from the Department for Education Searching, screening and confiscation Advice for headteachers, school staff and governing bodies January 2018:

School staff can search a student for any item ***if the student agrees*** (the ability to give consent may be influenced by the child's age or other factors)

Headteachers and staff authorised by them have a statutory power to search students or their boarding possessions, ***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
- 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 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:

- Matches
- Vaping equipment and fluid
- Sharp cutting tools or blades

- Chewing gum
- Expensive item of school property

School staff can seize any prohibited item found as a result of a search. They can also seize any item, however found, which they consider harmful or detrimental to school discipline.

Searching with consent

Schools' common law powers to search:

School staff can search students **with their consent** for any item

Ripon Grammar School Staff are advised to:

- Ask the student to turn out his or her pockets or empty their bag or locker.
- Staff may look in the student's bag or locker with the student's consent to ensure that the bag/locker is empty.
- **Formal written consent** from the student **is not required** to conduct such a search.
- 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 teacher can apply an appropriate punishment as set out in the Ripon Grammar School Positive Behaviour Policy.

Searching without consent

Please refer to the list of prohibited items and any item banned by the school rules, which has been identified in the rules as an item which may be searched for.

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

Exception:

Where a member of staff reasonably believes that there is a risk that serious harm will be caused to a person if you do not conduct the search immediately and where it is not reasonably practicable to summon another member of staff.

A search can be conducted when a member of staff has reasonable grounds for suspecting the student is in possession of a prohibited item. The member of staff must decide in each particular case what constitutes reasonable grounds for suspicion. For example, over-hearing a conversation about the time or the student's behaviour.

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

School staff can view CCTV footage in order to make a decision as to whether to conduct a search for an item.

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 student, for example on school trips in England or in training settings.

Ripon Grammar School: Heads of School, Heads of Boarding and SLT can use these powers as authorised by the Headteacher.

Screening: Ripon Grammar School does not use any walk-through or hand-held metal detectors to screen students.

Advice to staff: Conducting a search of clothes: possessions (including desks and lockers).

In the first instance, all students' personal property must be clearly labelled in order to avoid confusion. Students are encouraged to take responsibility for and take care of their personal property.

'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 reasonable to summon another member of staff.

- The person conducting the search should 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 but 'outer clothing' includes hats; shoes; boots; gloves; scarves.
- The power to search without consent enables a personal search, involving the 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 (police officer) can do.

Lockers and desks

Ripon Grammar School

Students may opt to use a school locker and the school cloakrooms. Students must be informed that the locker ***remains the property of the school, and as such maybe searched***. By having a locker the student consents to having their locker searched for any item.

Staff searching student lockers should aim to carry out a search of a locker in the presence of the student to whom the locker is leased.

However, a search can take place of a locker ***without a student being present provided consent is obtained (preferably in writing, although not a legal requirement) beforehand***:

With reference to prohibited items:

If a student 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' listed in the policy.

Boarding: Ripon Grammar School

As a boarding school, RGS must comply with the National Minimum Standards for Boarding Schools (April 2015)

Under standard 9.4 'any search of boarders' personal belongings should be carried out in accordance with section 550Z of the Education Act 1996 and with regard to any guidance issued by the Secretary of State'.

Schools should in carrying out searches or investigations in relation to drugs should refer to the DfE and ACPO drug guidance for Schools dated September 2012.

Boarding Houses

Guidance: Ripon Grammar School

A search can take place of a locker or room, without a student being present provided consent is obtained (preferably in writing, although not a legal requirement) beforehand:

Boarding House Staff may be asked to search a student's room:

- When searching for a lost item, it is advisable to ask students to search their own property to see if the item has been misplaced.
- A variety of circumstances may arise in which house staff may need to consider whether a search of boarders' rooms is justified.
- Another reason for such a search is where there is suspicion of alcohol or illegal drug possession (refer to the prohibited items list)

Example flow chart:

Ripon Grammar School, will aim to seek the consent of boarders when searching personal property and dormitories

Search to be conducted in the presence of the student/ occupant (s) by two members of staff, where possible the same sex as the student

If the student does not consent staff may continue to search and the parent/ guardian of the child should be informed and or advice from the police sought

If the student is absent the member of staff should consider whether the particular circumstances are serious enough to warrant the search.

Prohibited items - seek consent but if not forthcoming staff may search without consent.

Parents to be kept informed of the outcome of the search

Prohibited items or items banned under school rules to be confiscated and/or handed over to the police (drugs, unlawful pornography)

Use of force

Member of staff can use force as it 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.

After the search

The power to seize and confiscate items

The member of staff must use their discretion to confiscate, retain and/or destroy any item found as the 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.

Items found as result of a 'without consent' search

- 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. Alcohol must not be returned 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 teacher believes them to be harmful or detrimental to good order and discipline. This would include '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 there is a good reason to do so.
- Where a member of staff finds tobacco or cigarette papers they may retain or dispose of them. As with alcohol, this means that schools can dispose of tobacco or cigarette papers as they think appropriate but this should not include returning them to the student.
- 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 its possession constitutes a specific offence (i.e. it is extreme child pornography) in which case it must be delivered to the police as soon as reasonably practicable. Images found on a mobile phone or other electronic device can be deleted unless it is necessary to pass them onto the police.
- Where an article 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.
- 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 or dispose of it.

- Any weapons or items which are evidence of an offence must be passed to the police as soon as possible.

Stolen items - reasonable or desirable to involve the police if items are valuable e.g. lap top or illegal (alcohol/ fireworks)

Electronic Devices

- Where the person conducting the search finds an electronic device that is prohibited by the school rules or that they reasonably suspect 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 if 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 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 for 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 data or files the staff member must reasonably suspect that the data or file in question has been, or could be used to harm, to disrupt teaching or break the school rules.
- If the member of staff 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.
- All staff should be aware of the behaviours linked to sexting put a child in danger. Please refer to the RGS Child Protection Policy.
- Staff should also take into account any additional guidance and procedures on the retention and disposal of items which have been put in place.

Informing parents/guardians

- Schools are not required to inform parents before a search takes place or seek their consent to search their child. At Ripon Grammar School staff will inform parents when a search has been conducted and will inform parents of the outcome of a search.
- There is no legal requirement to make or keep a record of a search. At Ripon Grammar School a record of the search will be kept on the student's file.
- Schools 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 searching should be dealt with through the school's complaint procedure.

M J Murray

Policy dated: 15 May 2019