



## COLLEGE POLICY DOCUMENT

### ROOM SEARCH POLICY AND PROCEDURE

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#### Introduction

St. Andrew's College Cambridge reserve the right to search student rooms across all accommodations irrespective of where the student lives, including in host family lodgings and independent accommodation. Student-room searches may be conducted randomly or with a specific intention related to safeguarding (such as suspicion that illegal activity is occurring in the accommodation).

All rooms undergo general checks that students are complying with Health and Safety rules, the accommodation rules regarding fire hazards, smoking, alcohol, illegal substances, pets, and weapons and are caring for the whole room to an expected level.

The student/s should be present and there should be two members of the staff carrying out the search, unless there are exceptional circumstance. Staff need to follow the guidelines within this policy and complete required paperwork (see Appendix 1).

#### Key Points

- St. Andrew's College staff can search a student for any item banned under the St. Andrew's College rules, if the student agrees<sup>1</sup>.

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<sup>1</sup> The ability to give consent may be influenced by the child's age or other factors

- The Principal and staff authorised by the Principal have a statutory power to search students or their possessions, without consent, where they suspect the student has certain prohibited items. The items that can be searched for under this power are knives or weapons, alcohol, illegal drugs and stolen items.
- St. Andrew’s College staff can seize any banned or prohibited item found as a result of a search or which they consider harmful or detrimental to St. Andrew’s College discipline.

## SCREENING

### What the law allows:

- St. Andrew’s College 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 of having a weapon and **without** the consent of the students.
- St. Andrew’s Colleges’ statutory power to make rules on student behaviour<sup>2</sup> and their duty as an employer to manage the safety of staff, students and visitors<sup>3</sup> enables them to impose a requirement that students undergo screening.
- Any member of St. Andrew’s College staff can screen students.

1. If a student refuses to be screened, the Principal may refuse to have the student on the premises. Health and safety legislation requires a St. Andrew’s College 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.
2. If a student fails to comply, and the Principal 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 and attend.
3. This type of screening, without physical contact, is not subject to the same conditions as apply to the powers to search without consent.

<sup>2</sup> Section 89 of the Education and Inspections Act 2006

<sup>3</sup> Section 3 of the Health and Safety at Work etc. Act 1974

## SEARCHING WITH CONSENT

### St. Andrew's Colleges' common law powers to search:

- St. Andrew's College staff<sup>4</sup> can search students **with their consent**<sup>5</sup> for any item which is banned by the St. Andrew's College rules.
1. St. Andrew's College is not required to have formal written consent from the student for this sort of search – it is enough for the teacher to ask the student to turn out his or her pockets or if the teacher can look in the student's bag and for the student to agree.
  2. St. Andrew's College make clear in their St. Andrew's College behaviour policy and in communications to parents and students what items are banned.
  3. 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 St. Andrew's College's behaviour policy.
  4. A student refusing to co-operate with such a search raises the same kind of issues as where a student refuses to stay in a detention or refuses to stop any other unacceptable behaviour when instructed by a member of staff – in such circumstances, St. Andrew's Colleges can apply an appropriate disciplinary penalty.

## SEARCHING WITHOUT CONSENT

### What the law says:

#### *What can be searched for?*

1. Knives or weapons, alcohol, illegal drugs and stolen items (referred to in the legislation as 'prohibited items').<sup>6</sup>

#### *Can I search?*

2. Yes, if you are the Principal or a member of St. Andrew's College staff<sup>7</sup> and authorised by the Principal. But:
  - a. you must be the same sex as the student being searched; and
  - b. there must be a witness (also a staff member) and, if at all possible, they should be the same gender as the student being searched. For

<sup>4</sup> St. Andrew's College staff here means a teacher or someone who has lawful control or charge of the child.

<sup>5</sup> The ability to give consent may be influenced by the child's age or other factors

<sup>6</sup> Section 550ZA of the Education Act 1996. These provisions also include a power to make regulations to add to the list of prohibited items. No regulations have yet been made, but it is intended that regulations will be made to add to the list of 'prohibited items' as described above

<sup>7</sup> Member of St. Andrew's College staff means any teacher who works at the St. Andrew's College, and any other person who with the authority of the Principal has lawful control or charge of students for whom education is being provided by St. Andrew's College.

example, it is possible for a female teacher to witness a search of a male student where there is only one male member of staff in College or taking part in a St. Andrew's College trip.

*When can I search?*

3. If you have reasonable grounds for suspecting that a student is in possession of a prohibited item.

The law also says what must be done with prohibited items which are seized following a search.

### **Authorising members of staff**

1. The Principal will decide who to authorise to use these powers. There is no requirement to provide authorisation in writing.
2. Staff, can refuse to undertake a search. The law states that the Principal may not require anyone other than a member of the St. Andrew's College staff to undertake a search.
3. Staff can be authorised to search for some items but not others; for example, a member of staff could be authorised to search for stolen property, but not for weapons or knives.

### **Training for St. Andrew's College staff**

There is no legal requirement for the Principal or authorised member of staff to be trained before undertaking a 'without consent' search.

### **Establishing grounds for a search**

1. Teachers can only undertake a search without consent if they have reasonable grounds for suspecting that a student may have in his or her possession a prohibited item. The teacher 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.
2. The powers allow St. Andrew's College staff to search regardless of whether the student is found after the search to have that item. This includes circumstances where staff suspect a student of having items such as illegal drugs or stolen property which are later found not to be illegal or stolen.

## Location of a search

1. Searches without consent can only be carried out on the St. Andrew's College premises or, if elsewhere, where the member of staff has lawful control or charge of the student, for example on St. Andrew's College trips in England or in training settings.
2. The powers only apply in England.

## DURING THE SEARCH

### 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 but 'outer clothing' includes hats; shoes; boots; gloves and scarves.
- '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.

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 and desks

Under common law powers, St. Andrew's Colleges are able to search wardrobe and chest of draws for any item provided the student agrees. St. Andrew's Colleges can also make it a condition of having room in a boarding house that the student consents to have the items shown above searched for any item whether or not the student is present.

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 above.

## Use of force

Reasonable force may be used by the person conducting the search.  
Separate advice is available on teachers' power to use force.

## AFTER THE SEARCH

### The power to seize and confiscate items – general

#### What the law allows:

- St. Andrew's Colleges' 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.

1. 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.
2. 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 (that is a weapon/knife; alcohol; illegal drugs or stolen items) or is evidence in relation to an offence.
- Where a person conducting a search finds **alcohol**, they may retain or dispose of it.
- Where they find **controlled drugs**, these must be delivered to the police as soon as possible unless there is a good reason not to do so – in which case the drugs must be disposed of.
- 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, 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 unless there is a good reason not to do so – in which case the stolen item should be returned to the owner. These stolen items may be retained or disposed of if returning them to their owner is not practicable.
- In determining what is a “good reason” for not delivering **controlled drugs or stolen items** to the police the member of staff must have regard to guidance issued by the Secretary of State<sup>8</sup> (see paragraphs 1 to 5 below).
- Any **weapons or items which are evidence of an offence** must be passed to the police as soon as possible.
- It is up to teachers to decide whether there is a good reason not to deliver stolen items or controlled drugs to the police.

1. **In determining what is a ‘good reason’, 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.**
2. 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.
3. 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. However, St. Andrew’s College staff may judge it appropriate to contact the police if the items are valuable (iPods/laptops) or illegal (alcohol/fireworks).
4. Disposing of alcohol does not include returning it to the student. It may be poured down the sink.

### **Telling parents and dealing with complaints**

St. Andrew’s Colleges are not required to inform parents before a search takes place or to seek their consent to search their child.

1. There is no legal requirement to make or keep a record of a search.
2. St. Andrew’s Colleges 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.

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<sup>8</sup> Section 550ZC (6) Education Act 1996

3. Complaints about screening or searching should be dealt with through the normal St. Andrew's College complaints procedure.

## **Frequently Asked Questions**

### **I'm a teacher; can I refuse to search a student without their consent?**

Yes. The Principal cannot require a member of staff to conduct a search. In order to conduct a search without consent, a member of staff must be authorised to do so. Staff can choose whether they want to be authorised, or not.

### **What sort of training should teachers or other St. Andrew's College staff undergo before being authorised to search a student?**

St. Andrew's College staff are not legally required to undergo any training prior to being authorised by the head teacher to search students. As with all issues of staff training, these are decisions best made by the head teacher taking account of all the relevant circumstances.

### **Is there a risk that I could face legal challenge if I search a student without consent?**

The Principal and authorised St. Andrew's College staff have a specific statutory power to search students without consent for specific items – knives/weapons, alcohol, illegal drugs and stolen items. As long as the member of staff acts within the limits of this specific power they will have a robust defence against a legal challenge.

**Last review: May 2016 and July 2016**

**The next review date for this policy is: August 2017.**

## Appendix 1

Random room search inspection sheet

DATE OF SEARCH \_\_\_\_\_

TIME OF SEARCH \_\_\_\_\_

STAFF MEMBERS COMPLETING SEARCH (initials)

- 1.
- 2.

PROPERTY NAME:

ROOM No:

NAME/NAMES

: \_\_\_\_\_

ROOM ITEMS SEARCHED y/n/na

Additional comments

Bedroom/lounge area

Single bed, mattress lifted and under bed

Double bed, mattress lifted and under bed

Study desk, drawers opened

Desk chair

Double wardrobe, student opens

Bedside Unit, drawers opened

Chest of drawers, drawers opened

Bookcase

Sofa, cushions lifted

Curtains

Kitchen

Wall mounted units, cupboards opened

Wall mounted unit, top of cupboards checked

Oven/ Microwave

Fridge

Dishwasher opened

Shower Room

W.C, cistern lid lifted

Pedestal wash basin

Electric shower with shower hose and head

Bin

Other items

Suitcases, laptop cases, rucksacks, please detail...

Storage boxes, shoe boxes, instrument cases

### **Staff use only**

Email sent to Principal and Director confirming search

Log of search on sanctions Log

**Students**

I confirm that I accepted the random search carried out today by the two staff members

- 1.
- 2.

I can confirm that the staff members knocked and asked permission to enter and complete a random search of my room.

Signed: ..... Date: .....

Print Name: .....

Signed: ..... Date: .....

Print Name: .....