

Searching, and Confiscation Policy

This policy has been written using the legislation from

- Education Act 1996;
- Education and Inspections Act 2006;
- The Schools (Specification and Disposal of Articles) Regulations 2012;
- The School Behaviour (Determination and Publicising of Measures in Academies) Regulations 2012; and
- Health and Safety at Work etc. Act 1974

The policy follows the guidance written by the DfE and updated September 2012 entitled Screening, searching and confiscation.

Searching

- School staff can search a pupil for any item if the pupil agrees.
- The Principal and staff authorised by the Principal 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:
 - i. to commit an offence
 - ii. to cause personal injury to, or damage to the property of, any person (including the pupil)

The Principal and staff authorised by the Principal 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.

Items banned by the school are,

- Mobile phones
- Electronic devices

Schools' common law powers to search:

- School staff can search pupils with their consent for any item.

Also note:

1. Schools are 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.
2. It is clear in the school behaviour policy and in communications to parents and pupils what items are banned.
3. If a member of staff suspects a pupil has a banned item in his/her possession, they can instruct the pupil to turn out his or her pockets or bag if the pupil refuses, they will be removed from the classroom by a member of the behaviour support team.

Sanctions.

Refusal to comply with a reasonable request from a member of staff is recognised as one of the more serious offences and sanctions will be as outlined in the Behaviour Policy.

Establishing grounds for a search

1. Staff can only undertake a search without consent if they have reasonable grounds for suspecting that a pupil 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 pupils talking about the item or they might notice a pupil behaving in a way that causes them to be suspicious.
2. 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 should bear in mind that a pupil's expectation of privacy increases as they get older.

Search Protocol for staff

1. You must be the same sex as the pupil being searched; and there must be a witness (also a staff member) and, if at all possible, they should be the same sex as the pupil being searched.
2. There is a limited exception to this rule. You can carry out a search of a pupil of the opposite sex to you and 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 the search immediately and where it is not reasonably practicable to summon another member of staff.

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.

10. Lockers and desks

1. 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.
2. 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” listed above.

11. Use of force

1. 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.
2. See the **Positive Handling policy**

Items found as a result of a 'without consent' search

- Staff carrying out a search can confiscate anything they have reasonable grounds for suspecting is a prohibited item or is evidence in relation to an offence.
- Where staff conducting a search finds alcohol, it will be disposed of.
- Where staff find controlled drugs, these must be delivered to the police as soon as possible.
- Where staff 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 staff 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.
- Where a member of staff finds tobacco or cigarette papers they will dispose of them. Fireworks found as a result of a search will be disposed of.
- If a member of staff finds a pornographic image, they may dispose of the image unless 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. Images found on a mobile phone or other electronic device can be deleted unless it is necessary to pass them to the police.
- Where an article that 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.
- Any weapons or items which are evidence of an offence must be passed to the police as soon as possible.
- Mobile phones are returned at the end of the day for the first offence in an old term.
- Parents have to collect the phone for the 2nd offence and for the 3rd offence it is confiscated until the end of term.

14. Statutory guidance on the disposal of controlled drugs and stolen items

1. It is up to teachers to 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 the member of staff must have regard to the following guidance issued by the Secretary of State¹¹:

2. 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.
3. 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.
4. 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, school staff may judge it appropriate to contact the police if the items are valuable (iPods/laptops) or illegal (alcohol/fireworks).

Statutory guidance for dealing with electronic devices

1. Where the person conducting the search finds an electronic device they may examine any data or files on the device if they think there is a good reason to do so. Following an examination, if the person has decided to return the device to the owner, or to retain or dispose of it, they may erase any data or files, if they think there is a good reason to do so.
2. 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 must 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.
3. If inappropriate material is found on the device it is up to the teacher to decide whether they should delete that material, retain it as evidence (of a criminal offence or a breach of school discipline) or whether the material is of such seriousness that it requires the involvement of the police.