

# Pupil searches and confiscation of pupils' belonging policy

Action	Policy to be reviewed annually		
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School website	✓



## Pupil Searches

The School has the duty to safeguard and promote the welfare of children. In exercising this duty, the School will pay proper attention to the right of privacy of all pupils but there will be occasions on which it is necessary to search the person or belongings of a pupil. This policy sets out the circumstances in which such searches can be carried out and the means by which they should be done, in line with the Guidance for Schools on *Screening, Searching and Confiscation: Advice for Head Teachers, Staff and Governing Bodies* (DfE, January 2018)<sup>1</sup>.

This guidance says that it is lawful for the High Mistress, or teaching staff as delegated by the High Mistress, to search pupils, with their consent, for any item banned under the School rules in the Behaviour policy. There is also a statutory power to search pupils or their possessions without consent where there are reasonable grounds to believe that the pupil has certain prohibited items.

The key points of the guidance are:

- Pupils have a right to expect a reasonable level of personal privacy and any search should, therefore, be justified and proportionate. Reasonable grounds may include overhearing pupils talking about an item or a pupil behaving in an unusual or suspicious manner.
- School staff can search a pupil for any item, with the pupil's consent.
- School staff are authorised to search pupils or their possessions, **without consent**, where they suspect the pupil has certain prohibited or banned items. Prohibited items are defined in the guidance and the statutory powers relate to those items. Therefore, the prohibited items are currently:
  - Knives or Weapons
  - Alcohol
  - Tobacco, cigarette papers, e-cigarettes or vaping kits for under-age pupils
  - Substances that could be abused, such as illegal drugs, solvents or so-called "legal highs"
  - Stolen items
  - Fireworks and/or smoke bombs
  - Pornographic images
  - Inflammatory material of a religious, political, racist, homophobic or sexist nature
  - Any other item that it could reasonably be assumed may be used, or misused, to disrupt effective learning and good order in the School or its environs or to commit an offence, cause personal injury or damage to property
- School staff can confiscate any banned or prohibited item found as a result of a search or which they consider harmful or detrimental to School discipline.
- School staff may also confiscate, retain or dispose of a pupil's property as a disciplinary penalty.

## Searching a Pupil's Person or locker

Whenever a search of a pupil is conducted, the member of staff conducting the search should ensure that proper records are kept.

For a pupil's person search, the member of staff must be the same sex as the pupil and another member of staff should act as a witness. A search can be carried out by a member of

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<sup>1</sup> See <https://www.gov.uk/government/publications/searching-screening-and-confiscation> last update January 2018

staff of the opposite sex to the pupil and without a witness where the staff member reasonably believes that there is a risk of serious harm to a person if such a search is not carried out immediately and it is not reasonably practicable to call another member of staff.

### **Searches with Consent**

If a pupil is suspected of carrying an unauthorised item (items banned in the Behaviour Policy) they should be asked, in the presence of a second member of staff as a witness, to remove their outer clothing, to turn out their pockets, bag or locker. Schools are not required to have formal written consent from the pupil for this sort of search.

If a pupil refuses to co-operate then, in line with the Behaviour Policy, they will be treated in the same fashion as a pupil who refuses to comply with instructions from staff and they will be temporarily withdrawn from lessons until an appropriate investigation by the Director of Pastoral Care can take place. The pupil's parents should be contacted to persuade them to co-operate or, alternatively, the pupil can be disciplined as if they were in possession of the suspected items.

### **Searches without Consent**

In all circumstances the consent of the pupil to any search should be requested, although in certain situations searching without consent is permissible. Staff should only undertake a search without consent if they have reasonable grounds for suspicion that the pupil has certain prohibited or banned items as set out above and should always inform the Director of Pastoral Care having done so.

The pupil should be asked, again in the presence of a second member of staff as a witness, to turn out their pockets or bag. If they refuse, the first step is to inform their parents to ask them to persuade the pupil to co-operate. If this fails and possession of such items is still suspected, then a search of the pupil's person may still be conducted without the consent of the pupil.

### **Extent of Searches of a Pupil's Person**

Under no circumstances should staff touch the pupil or carry out any search under clothing and the member of staff conducting the search may not require the pupil to remove any clothing other than outer clothing (outer clothing is clothing that is not worn next to the skin or immediately over a garment that is being worn as underwear, and also hats, shoes, boots, gloves and scarves).

A second adult witness should always be present at a search. Incident CPOMS reports must be submitted about any such search, listing all the main details. Affected pupils' parents should always be contacted after any search, regardless of the outcome.

### **Electronic devices**

Where the member of staff conducting the search suspects that an electronic device 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 devices 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. In determining a 'good reason' to examine or erase the data or files the staff member should 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.

If an electronic device that is prohibited by the school rules 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. In such circumstances, staff should normally inform the DSL who will report to the police except on trips when it will be necessary for the trip leader to report directly to the police.

Parental consent is not needed to search though a pupil'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.

### **Intimate searches**

If a member of staff has good cause to suspect that a prohibited item (e.g. illegal drugs or stolen property) is concealed within a pupil's inner clothing, and hence it is felt necessary for a pupil to be subject to an intimate search (i.e. consisting of inner clothing), then the pupil should be told that the police will be called, who are allowed to conduct a personal search if they believe that a crime has been committed. Intimate searches may only be conducted by a police officer, and following notification to parents/carers.

### **Searches of property in the absence of a pupil**

Searches of pupil property on school grounds or on trips should not be carried out in the absence of the relevant pupil(s), unless the circumstances are such (for instance the suspected presence of drugs or weapons) as to make such a search warranted. In such cases authorisation to carry out the search should be obtained from the High Mistress or Director of Pastoral Care. Forcible entry into locked School property (such as a locker) is only justified in extreme circumstances and would also need the authorisation of the High Mistress or Director of Pastoral Care.

### **Items found as a result of a search**

For items found as a result of a search (with or without consent):

- Alcohol may be retained and disposed of appropriately
- Controlled substances (or suspected controlled substances) will be delivered to the police in accordance with the School's Substance Misuse Management and Education Policy
- The School will judge if stolen items also need to be reported to the police and, where appropriate, the items will be returned to their rightful owner.

### **School Trips**

This policy applies on authorised School trips where the School rules are in force. There may therefore be occasion to carry out a search on a School trip. The member of staff in charge of the trip is empowered to carry out such a search, following all the above procedures. A second adult should act as a witness. If this occasion arises, the adult in charge of the trip should will inform the SMT contact of any search carried out. Full notes must be kept and an incident report submitted in due course.

## **Confiscations**

Any unauthorised or prohibited items may be confiscated by the member of staff conducting the search. Guidelines about the disposal of such items are dealt with elsewhere in this policy.

## **Notifying Parents**

The School is not required by law to inform parents before a search takes place or to seek their consent to search their child. However, the School will inform parents of any serious disciplinary incident that may involve a search of their child as soon as it is practicable.

## **Complaints**

Any complaints about how a search has been conducted will be dealt with by the School's Complaints Policy.

## **Confiscation of pupils' belongings**

The non-statutory Guidance for Schools *Screening, Searching and Confiscation: Advice for Head Teachers, Staff and Governing Bodies (DfE, February 2014)*<sup>2</sup> provides that confiscation is an appropriate disciplinary measure when applied in a reasonable and proportionate way. "Reasonableness" is defined as any clear breach of School rules or where there is a clear concern about pupil safety.

Any member of staff may confiscate, retain or dispose of a pupil's property when they deem it necessary to enforce the School rules and regulations, in line with the Behaviour Policy, and to maintain an environment conducive to learning, where the rights of all pupils to be educated in a safe and orderly environment are safeguarded. School staff may also confiscate, retain or dispose of a pupil's property as a disciplinary penalty, where reasonable to do so.

Circumstances in which items may be confiscated include:

- An item that poses a threat to others: for example, a laser pen is being used to distract and possibly harm other pupils or staff
- An item that poses a threat to good order for learning: for example, a pupil uses a personal music player or mobile phone in a lesson
- Any other item which is against School rules: for example, an item of food or drink which is unauthorised or being consumed in an unauthorised location
- An item that poses a health or safety threat
- An item which is counter to the ethos of the School: for example, material which might cause tension between one community and another or is illegal for a child to possess (such as racist or pornographic material, alcohol, illegal substances)
- Any other prohibited or dangerous items as detailed by the School's rules and regulations (including those found as a result of a search) or which the member of staff considers harmful or detrimental to School discipline

This policy particularly relates to the confiscation of mobile phones but not exclusively so. The School rules and regulations clearly sets out the School's rules for mobile phone use. Any pupil who is in clear breach of these rules by using it in a lesson for example, or takes a photo of or makes an audio or video recording of someone without their permission stands

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<sup>2</sup> See <https://www.gov.uk/government/publications/searching-screening-and-confiscation> last update January 2018

to have the phone confiscated. Similarly, it would also be reasonable to confiscate a phone or other mobile electronic device where a pupil's use of that item presents a danger to themselves, such as using it whilst crossing a road, or to others.

Particular care should be taken when deciding whether to confiscate items of clothing or jewellery with appropriate regard to whether the item has religious or cultural significance to the pupil. When confiscating items, staff should avoid inappropriate physical contact or interference with pupils' clothing. In order to minimise risks in these circumstances, staff should seek to ensure that another member of staff is present where possible. Confiscation of any item that would leave the pupil only partly dressed must be avoided.

In general, items should be confiscated for the duration of a lesson or until the completion of the same School day. Any member of staff who confiscates a phone or other item from a pupil during a School activity or lesson should return the item to the pupil at the end of the activity or lesson and inform their form tutor with a written explanation of the reason for confiscation. If a member of staff wishes to confiscate an item for a longer duration this should first be discussed with and approved by an appropriate senior member of staff.

Confiscation may be accompanied by other disciplinary action to be determined by the staff member, form tutor, head of year, or other senior member of staff as appropriate. Pupils have the right to expect that confiscated items, especially those of monetary or emotional value, will be stored safely until they can be returned and staff should present such items to the Director of Pastoral Care (or, in her absence, the Head of Year) in an envelope with the details of the pupil and agreed arrangements for return so that the item can be stored securely. In addition, a brief explanation of the circumstances of the confiscation should be provided to an appropriate senior member of staff.

Any member of staff who confiscates an item thought to be a weapon, a controlled substance or stolen goods, or which contravenes the School rules (this might include alcohol, cigarettes, 'legal highs', or fireworks), should pass the item on to the Director of Pastoral Care. These items should not be returned to the pupil for disposal. In certain situations, these items may be passed onto the police for further investigation.

## **Complaints**

Complaints about confiscations will be dealt with under the School's Complaints Policy.