

Appendix 5 Searching and confiscation

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.

The School's policy on searching and confiscation has regard to the DfE guidance Searching, Screening and Confiscation July 2022.

1. Prohibited items

- 1.1 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:
 - 1.1.1 knives or weapons, alcohol, illegal drugs and stolen items
 - 1.1.2 tobacco and cigarette papers, fireworks and pornographic images
 - 1.1.3 any article that a member of staff reasonably suspects has been, or is likely to be used:
 - (a) to commit an offence; or
 - (b) to cause personal injury to, or damage to the property of, any person (including the pupil); and
 - 1.1.4 any item banned by the School Rules that are identified as being items which may be searched for.
- 1.2 The School has banned items that are reasonably believed to be likely to cause harm or disruption. 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 an educational visit).
- 1.3 Mobile phones are permitted but, for First to fifth Year pupils, these must be placed in a mobile phone pouch from 8am until the pupil leaves the school site unless instructed or permitted to open the pouch and use their phone under the supervision of a member of staff. An unpouched mobile phone, which is in breach of the school's Mobile Phone Policy, is a banned item. Furthermore, a pouch unlocking device, a magnet of a similar strength which could be used to unlock pouches, is also a banned item.

2. Before searching

- 2.1 Before any search is undertaken the member of staff conducting the search should explain to the pupil why they are being searched, how and where the search is going to take place and give them the opportunity to ask any questions. The age and maturity of the pupil will be taken into account together with any special needs the pupil may have. Reasonable adjustments that may be required where a pupil has a disability will be made. The member of staff should always seek the cooperation of the pupil before conducting a search. If the pupil is not willing to cooperate with the search, the member of staff should consider why this is. Reasons might include they are in possession of a prohibited item, do not understand the instruction, are unaware of what a search may involve or have had a previous distressing experience of being searched.
- 2.2 If the pupil continues to refuse to cooperate disciplinary action may be taken in accordance with the School's Behaviour and Discipline Policy.

- 2.3 If the member of staff still considers a search to be necessary, but is not required urgently, they should seek the advice of the headteacher, designated safeguarding lead (or deputy) or pastoral member of staff who may have more information about the pupil. During this time the pupil should be supervised and kept away from other pupils.
- 2.4 If the pupil still refuses to cooperate, the member of staff should assess whether it is appropriate to use reasonable force to conduct the search. A member of staff can use such force as is reasonable to search for any statutory prohibited items but not to search for items which are non-statutory (banned by the School Rules).

3. During a search

- 3.1 Searches will be carried out only on School premises or, where the member of staff has lawful control or charge of the pupil, for example on a school trip.
- 3.2 A member of staff may search:
- (a) outer clothing and pockets; and / or
 - (b) School property (e.g. pupils' lockers or desks); and / or
 - (c) personal property (e.g. bag or pencil case).
- 3.3 A member of staff may use a school-owned hand-held metal detector to search for knives and weapons and for mobile phones that are not in pouches and for phone pouch unlocking devices (or a similar strength magnet, which could be used for unlocking phone pouches).
- 3.3 Searches will be conducted in such a manner as to minimise embarrassment or distress. Any search of a pupil's possessions will be carried out in the presence of the pupil. The law states that the member of staff conducting the search must be of the same sex as the pupil being searched and there must be another member of staff present as a witness to the search.
- 3.4 Where it is reasonably believed that serious harm may be caused if the search is not carried out as a matter of urgency and it is not practicable to summon another member of staff, a member of staff may carry out a search of a pupil of the opposite sex and / or in the absence of a witness. When a member of staff conducts a search without a witness they should immediately report this to another member of staff and ensure a record of the search is kept.

4. After a search

- 4.1 If a pupil is found to be in possession of a prohibited item the item should be confiscated and the pupil should be sanctioned in line with the behaviour and discipline policy. If a pupil is found to be in possession of a statutory prohibited item then the member of staff should alert the designated safeguarding lead (or deputy).
- 4.2 Whether or not any items have been found as a result of a search, it should be considered whether the reasons for the search, the search itself or the outcome of the search give cause to suspect that the pupil is suffering, or is likely to suffer harm, and/or whether any specific support is needed. Where this may be the case, the School's safeguarding policy should be followed and the designated safeguarding lead (or deputy) informed.

5. **Confiscation**

- 5.1 Under the School's general power to discipline, a member of staff may confiscate, retain or dispose of a pupil's property as a disciplinary penalty where it is reasonable to do so.
- 5.2 Confiscation of an item may take place following a lawful search, as set out above, or however the item is found if the member of staff considers it to be harmful or detrimental to School discipline.

6. **Searching electronic devices**

- 6.1 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, 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. Any search of an electronic device should be conducted in the presence of a second member of staff.
- 6.2 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.
- 6.3 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 hand it over to the police if the material is of such seriousness that police involvement is required e.g. it may constitute evidence relating to a suspected offence.
- 6.4 If the member of staff conducting the search suspects they may find an indecent image of a child (known as nude or semi-nude images), the member of staff should never intentionally view the image and must never copy, print, share, store or save such images. When an incident might involve an indecent image of a child and/or video, the member of staff should confiscate the device, avoid looking at the device and refer the incident to the designated safeguarding lead (or deputy).

7. **Disposal of confiscated items**

- 7.1 **Alcohol:** alcohol which has been confiscated will be destroyed.
- 7.2 **Controlled drugs:** controlled drugs will usually be delivered to the police as soon as possible. In exceptional circumstances and at the discretion of the Head or authorised 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:** substances which are not believed to be illegal 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 an illegal drug, it will be treated as though it is illegal and disposed of as above.
- 7.4 **Stolen items:** stolen items will usually be delivered to the police as soon as possible. However, if, in the opinion of the Head or authorised 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, nicotine pouches, e-cigarettes and liquids:** these will be destroyed.
- 7.6 **Fireworks:** fireworks will not be returned to the pupil. They will be disposed of safely at the discretion of the Head or other authorised member of staff which may include donation to an appropriate charity.
- 7.8 **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. As possession of such images may indicate that the pupil has been abused, the Designated Safeguarding Lead will also be notified and will decide whether to make a referral to the Local Authority.
- 7.9 Other pornographic images will also be discussed with the Designated Safeguarding Lead. The images may then be passed to 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.
- 7.9 **Article used to commit an offence or to cause personal injury or damage to property:** such articles may, at the discretion of the Head or authorised member of staff taking all the circumstances into account, be delivered to the police, returned to the owner, retained or disposed of.
- 7.10 **Weapons or items which are evidence of an offence:** such items will be passed to the police as soon as possible.
- 7.11 **A non-statutory prohibited item (an item banned by the School Rules):** such items may, at the discretion of the School or authorised member of staff taking all the circumstances into account, be returned to its owner, retained or disposed of. Where staff confiscate a mobile phone that has been used in breach of School rules to disrupt teaching, the phone will be kept safely until the end of the school day when it can be claimed by its owner, unless the Head considers it necessary to retain the device for evidence in disciplinary proceedings in accordance with 7.12 below. If a pupil persists in using a mobile phone in breach of School Rules, the phone will be confiscated and must be collected by a Parent.
- 7.12 **Electronic devices:** if it is found that a mobile phone, laptop or tablet computer or any other electronic device has been used to cause harm, or break School Rules, including carrying out cyberbullying, the device may 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 and the pupil may be prohibited from bringing such a device onto School premises or on educational visits. In serious cases, the device may be handed to the police for investigation.
- 8. **Recording searches**
 - 8.1 Any search by a member of staff for a statutory prohibited item and all searches conducted by police officers should be recorded as a safeguarding incident on CPOMS. This is to allow the safeguarding lead (or deputy) to identify possible risks and initiate a safeguarding response if required.
 - 8.2 Any search for a non-statutory prohibited item will also be recorded on CPOMS.

9. Communication with Parents

- 9.1 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.
- 9.2 Parents should always be informed of any search for a statutory prohibited item that has taken place and the outcome of that search as soon as is practicable. A member of staff should inform the parents of what, if anything, has been confiscated and the resulting action the school has taken, including any sanctions applied.
- 9.3 There is no requirement for school to inform parents of a search for a non-statutory item; parents will be informed as necessary.
- 9.4 In appropriate cases we will inform Parents on how the School will dispose of certain items.
- 9.5 Complaints about searching or confiscation will be dealt with through the School's Parental Complaints Policy and Procedures.
- 9.6 The School will take reasonable care of any items confiscated from pupils. 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.

