

Search & Confiscation Policy - SMG (Jan 22)

Monitoring and Reviewing

This policy will be formally reviewed every 3 years.

Ongoing monitoring of actions and impacts/outcomes will be:

- Feedback within school to Headteacher

Legislation this policy relates to

Schools (Specification and Disposal of Articles) Regulations 2012

School Behaviour (Determination and Publicising of Measures in Academies) Regulations 2012

Education and Inspections Act 2006

Health and Safety at Work Act et al 1974

Policing and Crime Act 2009 Section 30

Education Act 1996

Data Protection Act 1998

Sexual Offences Act 2003

European Convention on Human Rights Article 8

DfE Advice: Screening, searching and confiscation January 2018

Linked policies

Attitudes to learning policy

Mobile phone/electronic devices policy

Drugs policy

Safeguarding policy

Safe Working Practices

Aim

To keep all members of the school community safe

School's common law powers on search

Certain designated roles within the school empower school staff to be able to search students with or without their consent dependent on the circumstances that present themselves.

With student consent

- School staff can search students with their consent for any suspected item banned by the school rules.

Without student consent

- School staff can search students without their consent for any suspected knives, weapons, alcohol, illegal drugs, stolen items, tobacco and cigarette papers, fireworks, pornographic images, any item which could reasonably be suspected of being used to commit an offence, personal injury or damage to property (from now on called prohibited items) or banned item (as identified in school rules). (See Appendix 1)
- A student refusing to cooperate with a search will raise the same kind of issues as where a student refuses to stay in detention or refuses to stop any other unacceptable behaviour

when instructed by a member of staff – schools can apply an appropriate disciplinary penalty.

When and where can a search take place?

A search can take place if there are reasonable grounds for suspecting that a student is in possession of a prohibited or banned item. The school operates the balance of probability in all such situations. The search may be of the student's clothing, footwear, bags or locker. The student must be present during the search unless there is the risk that serious harm may be caused to a person if the search is not conducted immediately. One member of staff may search without another member of staff present only where it is not reasonably practicable to summon another member of staff and there is risk of serious harm to a person.

Wherever possible, a search should take place in an office or meeting room that provides a level of privacy. This may not be possible for example if searching a locker in a corridor which is a public place.

Who is authorised to search students?

On the school premises and grounds, the Headteacher, members of the Senior Leadership Team, Heads of Year, Safeguarding team and staff employed in the Inclusion Unit have ongoing authorisation to search students in school. In exceptional circumstances, all members of staff employed by the school have authorisation to conduct a search if there is justification. On an out of school activity, the Group Leader is authorised to search students providing there is justification in accordance with school policy. All staff have ongoing authorisation to be the witness of a search. On an out of school activity, temporary authorisation is given to non-employees who are named adults supervising students on school trips to be a witness to a search. This temporary authorisation is only valid during the hours of the trip and can only be used when a staff employee is not able to deal with the situation.

If deemed necessary, the Headteacher or Deputy Headteacher will provide appropriate training for staff.

When a search is required, there must be two members of staff present. The first member of staff conducting the search must be the same biological sex as the student being searched. Where possible consent should be gained as to the gender of the lead member of search staff conducting the search in order to safeguard protected characteristics. The witness (second person) who, where possible, must be a member of staff and should be, again wherever possible, the same gender as the student being searched. Where possible one member of the search team should be a member of SLT.

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 the person if the search is not conducted immediately, and where it is not reasonably practicable to summon another staff member.

On a school trip, the Group Leader where possible should lead the search but if this is not possible due to gender, they have the authority to delegate the search to a member of staff of the same gender.

Where there is immediate danger, a search may have to take place by non same sex members of staff, however this would have to be fully justifiable and a full record made immediately following the search by any staff in attendance.

Justification for search

Students should be entitled to be told the reasons for the search and what is being searched for, and can include stating that this search is for prohibited items, or specifics, if known. The lead member of the search team should state that the search is being carried out in accordance with DfE and School policy and that a record of the search will be made.

Extent of the search

There is no legal requirement to make or keep a record of the search. However, school policy requires the lead member of staff undertaking the search to record the name, time, place, staff involved, grounds for search, where that information came from, and outcome.

A student's possessions (any goods over which the student has or appears to have control such as bags and lockers) may be searched.

The staff conducting the search may conduct a "personal search" which requires the student to remove any 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 jackets, coats, sweatshirts, hats, shoes, boots, gloves and scarves).

Staff are not authorised to conduct a search which requires the removal of non-outer clothing. The Police must always be called to conduct this type of search if needed as they have the legal powers required.

The searcher should avoid touching the student's clothing or property to reduce the risk of injury from sharp objects. The student should turn out pockets, empty bags etc. Staff should only touch items which are visible and the risk of sharp items being present can be assessed by the searcher. Protective gloves are available from Matron or from the First Aid Kit if on a school trip

Force should be avoided when conducting a search. A member of staff can use 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 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. Staff are protected under Section 3 of the Criminal Law Act (1967) in the use of force in the prevention of crime.

If there are any concerns that the student to be searched may become aggressive then the search should not take place and the Police called.

After the search

Staff must seize any prohibited or banned items found during a search.

Physical Items found during a search

Any item seized which is prohibited (with the exception of alcohol) must be delivered to the Police by the Headteacher as soon as possible. Support will be offered and provided to students with alcohol, drugs and mental health issues that have caused them to break the rules. Items should be locked in the school safe until handover is possible. Items which are evidence of an offence must be passed to the police as soon as possible. Any seized substance whose legal status is unsure should be treated as a controlled drug.

It would not be reasonable or desirable to involve the Police in dealing with low value stolen items such as pencil cases which will be returned to the owner. The Police will be involved in higher value stolen items.

Matron should be informed of any "sharps" items seized to arrange safe storage or disposal.

Alcohol which has been seized should be safely disposed of by pouring it down the sink. An alcohol tester kit is available from the Inclusion Unit Manager. If alcohol has been found on a student more than once within the last 12 months then the School Police Liaison Officer will be informed as Section 30 of the Policing and Crime Act 2009 created an offence for a person under the age of 18 of 'persistently possessing alcohol in a public place'.

Tobacco or cigarette papers will be seized and disposed of. E cigarettes will be seized, locked away and a parent/carer will be required to come in to collect them. They will not be returned directly to the student.

Fireworks and firecrackers will be safely disposed of.

Electronic devices and Images found during a search

Under British law it is an offence to possess, take, make, send, show, distribute or receive indecent images of anyone under 18. This includes images relating to one's self. Police advice will be sought. Images found on mobile phones or other electronic devices will be deleted with the student present unless it is necessary to pass them to the police.

Any seized banned item should be handed into the school office immediately where it will be recorded in a log book and then locked away in a safe under the control of the Headteacher. A parent/carer will be required to come into school to collect the item.

In accordance with statutory guidance for dealing with electronic devices, 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, a decision can be taken to return the device to the owner, or to retain or dispose of it. There is no requirement to gain 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 an offence or cause personal injury or damage to property.

Staff conducting the search may take a copy of the material and place it in a secure place stating why it was copied and held; this remains the property of the school if made using the school systems. Staff can ask students to erase any data or files that are deemed inappropriate. If there is suspicion of a criminal offence, this will require the involvement of the police, and the device should NOT be switched off or locked, but confiscated as per school policy. When determining 'good reason' to examine, retain or ask for the files to be deleted the member of staff should reasonably believe 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.

Indecent Images

It is a criminal offence to take, permit to be taken, hold with a view to distributing, sharing or publishing an image or pseudo image of a child (under the age of 18) and will result in the phone being confiscated and passed to the police. This is in accordance with Section 1 of The Children's Act (1978). Where there is reasonable suspicion that an indecent image is held on an electronic device, this is confiscated without the device being searched. Where an indecent image is seen on a device, no further searching of the device is permitted and it

is confiscated, as above. Where it is believed that an image has been received and deleted, consent to look at their phone is requested, to satisfy that no criminal activity as identified above has taken place. Images **MUST NEVER** be sent on or shared as this is a criminal offence. Staff must not save or send indecent images at all and the device must be locked away for police handling.

Student punishment will be in accordance with the Attitude to Learning Policy and may involve detention, suspension of their internet account in school, internal isolation, fixed or in extreme cases permanent exclusion.

Any student who refuses to cooperate with a search (non consent) will be considered to have refused a reasonable staff instruction and will be punished accordingly, including if necessary contacting the police to make it a police matter.

Parent/carer involvement

There is no legal requirement to inform the parent/carer.

The school will inform a parent/carer where a seized item is prohibited unless this would compromise the student's safety or is part of a wider police investigation.

When a banned item has been confiscated, a parent/carer will then have to come into school to collect any item not delivered to the police or disposed of by staff.

If following a search the school feels there is concern over the student's activities, the parents or other appropriate authority will be contacted to safeguard the student.

Complaints and Allegations

Any complaint or allegation of misconduct arising from an incident should be put in writing to the Headteacher using the school's complaints procedure. This can be found on the school's website.

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 and followed school policy.

Appendix 1

Prohibited and Banned Items.

Prohibited items can either be prohibited as it is against the law to have or carry items or against the school rules (as identified in the school rules).

Prohibited Items:

Knives and weapons
Alcohol
Illegal drug
Stolen items
Tobacco and cigarette papers
Fireworks
Pornographic images

Additionally any item which could reasonably be suspected of being used to commit an offence, personal injury or damage to property.

Banned Items:

E cigarettes, vape (shisha) pens or other electronic smoking paraphernalia
Items that can generate a flame e.g. matches or lighters
Items causing small explosions such as firecrackers
Solvents
Pain relief medication other than an amount appropriate for personal consumption
Volatile substances
Laser pens
Items not permitted under the school uniform policy

And any other item deemed to contravene a safe school and the maintenance of a productive learning environment.

Procedures for carrying out a search



