



Screening, Searching and Confiscation Policy & Procedure

November 2023

SCREENING, SEARCHING AND CONFISCATION POLICY & PROCEDURE

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This policy and procedure document links with and is supported by the following other policy and procedure documents:

- Conduct Policy & Procedure
- Exclusions Policy & Procedure
- Mobile Phones & Other Devices Policy & Procedure – Students

INTRODUCTION

All searching and confiscation that takes place within the school is carried out under the updated Department for Education Guidance (DfE) 'Searching, Screening and Confiscation' (July 2022) ('the Guidance'). This policy should be read in conjunction with that guidance.

Headteachers and staff authorised by them have a legal authority to search any student for any item listed in the Guidance, and also any item banned under the school rules, if the student agrees. Refusal to agree could result in a sanction or searching without consent, or both, as set out below. Authorised staff includes the Leadership Team, Heads of Year, members of the Safeguarding Team and The Behaviour Support Co-Ordinator.

Headteachers and staff authorised by them have a legal authority to search students or their possessions, without consent and using reasonable force, where they suspect the student has certain items. Under the Guidance, these items are knives and weapons, alcohol, illegal drugs, stolen items, any article that it is suspected is likely to be used to commit an offence or cause injury, tobacco and cigarette papers, fireworks, and pornographic images.

Headteachers and staff authorised by them have a legal authority to confiscate students' property or other items found during a search where they suspect that the item poses a risk to staff or students, where it is prohibited under the rules, or where it is evidence in relation to an offence. They should return, retain, pass on or dispose of confiscated items in line with the Guidance.

Headteachers and staff authorised by them have a legal authority to examine electronic devices confiscated as a result of a search for files or data which relate to an offence, or which may cause harm to another person. This includes, but is not limited to, indecent images of children, pornography, abusive messages, images or videos, or evidence relating to suspected criminal behaviour. They should consider all relevant safeguarding guidance and ensure that an appropriate safeguarding response is made.

The circumstances of each individual case will need to be considered in determining the length of the confiscation. For example, if a student is continually having possessions confiscated, it might be necessary to hold onto the item until an appointment is made between the parent and the Head of Year. At this meeting it should be reiterated that such items are not permitted in the school and the reasons why. The parent should be advised that if there is a repeat offence, the item could be retained for a longer period of time, up to a maximum of the end of the current school term.

This policy is linked with the Department for Education document, "Screening, Searching & Confiscation – Advice for head teachers, staff and governing bodies" (DfE, 2012), the Education and Inspections Act 1996, and the Education Act 2011.

PROHIBITED ITEMS & ITEMS BANNED BY THE SCHOOL RULES

Those items considered as being prohibited and banned by the school rules are published as part of Appendix B to this policy and on the school website.

The following are considered as **prohibited items**:

- Any weapons – real or fake/replica
- All illegal drugs and related paraphernalia
- Alcohol
- Tobacco and cigarette papers
- Lighters
- Vapes
- Vaping liquid
- Laughing gas
- Bangers/snaps
- Fireworks
- Party poppers
- Laser pointers
- Water balloons
- Spray paint
- Any stolen item
- Pornographic images (including those held on students' own mobile devices)
- Any other item which a school policy specifically refers to as banned
- Any article that a member of staff reasonably suspects has been, or is likely to be used to:
 - i. to commit an offence
 - ii. to cause personal injury to, or damage to the property of, any person (including the student)

SEARCHING STUDENTS WITH CONSENT:

School staff can search students with their consent for any item which is listed in the Guidance or banned by the school rules.

- Only staff authorised by the Headteacher should conduct a search of students' possessions. This includes the Leadership Team, Head of Year, members of the Safeguarding Team and The Behaviour Support Co-Ordinator. Other staff should refer matters where they feel a search is necessary to one of these members of staff.
- Formal written consent from the student for this sort of search is not required. The member of staff conducting the search should explain the reasons for the search and seek the student's consent.
- An appropriate place for the search should be found. This must be away from other students and must be on school premises or where the member of staff has lawful control of the student, for example on school trip.
- The search should be conducted by a member of staff of the same sex as the student, and there should be a second member of staff present to witness the search, unless the matter is of extreme urgency (such as the risk or imminent serious harm) and it is not practical to find a member of staff of the same sex / and or a witness.
- Staff may search students' outer clothing, pockets, possessions, desks or lockers. Students may not be asked to remove any clothing other than outer clothing. 'Outer clothing' means any item of clothing that is not worn wholly next to the skin or immediately over a garment worn as underwear, as well as hats, shoes and scarves. Students may be asked to turn out their pockets as part of a search. Possessions includes bags, lockers and any area under the student's control.
- All searches of students' possessions must be undertaken in the presence of the student and a witness, except where there is the risk of serious harm if the search is not conducted immediately.
- A hand held metal detector (security wand) can be used to assist with a search. This will be passed over the body around 6 inches away to ensure no banned or prohibited items are concealed.
- Special and individual authorisation must be obtained from the Headteacher or one of the Leadership Team to search the contents of electronic devices.

These powers do not authorise a member of staff to conduct a 'strip search'. A student refusing to co-operate with such a search raises the same kind of issues as a student who refuses to stay in a detention or refuses to stop any other unacceptable behaviour when instructed by a member of staff – in such circumstances, schools can apply an appropriate disciplinary sanction, and / or search without consent where this is deemed to be necessary, especially if the search is required urgently.

AFTER A "WITH CONSENT" SEARCH:

- All searches must be recorded on the SIMS database, including the reasons for the search and whether anything was found.
- Searches for prohibited items as set out under the Guidance (knives and weapons, alcohol, illegal drugs, stolen items, any article that it is suspected is likely to be used to commit an offence or cause injury, tobacco and cigarette papers, fireworks and pornographic images) must also be recording on CPOMS and reported to the DSL/DDSL to decide whether safeguarding responses are required.
- Parents/Carers should always be informed of searches for prohibited items as set out under the Guidance (knives and weapons, alcohol, illegal drugs, stolen items, any article that it is suspected is likely to be used to commit an offence or cause injury, tobacco and cigarette papers, fireworks and pornographic images). It is good practice also to inform parents/carers of other searches and the reasons for them.
- 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, in line with the policy statement above.
- The law protects members of staff from liability in any proceeding brought against them for any loss of or damage to, any item they have confiscated, provided they acted lawfully.

CONFISCATION:

Any member of staff may confiscate visible property that is banned under the rules, such as items below and also including items banned under the Mobile Phone Acceptable Use Policy or Uniform and Equipment Policy.

If a member of staff needs to confiscate property from students (for example: clothing, jewellery, a mobile telephone or headphones) they should adhere to the following procedures:

- Items of clothing (only) can be retained by the teacher/member of staff confiscating or passed to the Pastoral Office.

- Inform the student that you are confiscating the item and that the item is not permitted in the school. Tell them when and where it can be collected.
- Identify a reasonable time when the item can be collected by the student. Under normal circumstances, it should be within 24 hours. Outdoor coats need to be returned at the end of the same day.
- Mobile telephones or headphones confiscated because they have been seen or heard in school should be sent to the Pastoral Office when it is reasonable to do so. They can be collected at the end of the school day for the student concerned.
- If this is a repeat offence, the Pastoral Office will contact home and arrange for the item to be collected.

SEARCHING A STUDENT WITHOUT CONSENT:

The Headteacher, or school staff who have been authorised by the Headteacher may under the Guidance search students **without consent** and using reasonable force for any item that is specifically set out in paragraph 3 of the Guidance only. These items are knives and weapons, alcohol, illegal drugs, stolen items, any article that it is suspected is likely to be used to commit an offence or cause injury, tobacco and cigarette papers, fireworks and pornographic images. Staff may not search without consent for other items not set out in the Guidance but banned under the school rules.

A search can take place if there are reasonable grounds for suspecting that a student is in possession of any of the above items. The member of staff must decide in each case what constitutes reasonable grounds for suspicion. For example, they may have heard other students talking about the item or notice a student behaving in a suspicious manner. The school can rely on CCTV footage to help reach their decision. These powers apply regardless of whether any prohibited item is found on the student.

All the requirements as for a search conducted with consent also apply for a search conducted without consent, including staff of the same sex and the student, witnesses, the recording of searches and informing parents.

The power to search 'without consent' enables a 'personal search', involving the removal of outer clothing and searching of pockets, but it is categorically not an intimate search or 'strip search'. The person conducting the search may not require the student to remove any clothing other than outer clothing. 'Outer clothing' means any item of clothing that is not worn wholly next to the skin or immediately over a garment worn as underwear, as well as hats, shoes, and scarves.

A student's possessions can only be searched with the student and another member of staff present unless there is a risk of serious harm to a person if the search is not carried out immediately and it is not reasonably practicable to summon another member of staff. 'Possessions' mean any goods over which the student has or appears to have control, such as bags.

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.

AFTER A "WITHOUT CONSENT" SEARCH

- All searches must be recorded on the SIMS database, including the reasons for the search and whether anything was found.
- Searches for prohibited items as set out under the Guidance (knives and weapons, alcohol, illegal drugs, stolen items, any article that it is suspected is likely to be used to commit an offence or cause injury, tobacco and cigarette papers, fireworks and pornographic images) must also be recording on CPOMS and reported to the DSL/DDSL to decide whether safeguarding responses are required.
- Parents/Carers should always be informed of searches for prohibited items as set out under the Guidance (knives and weapons, alcohol, illegal drugs, stolen items, any article that it is suspected is likely to be used to commit an offence or cause injury, tobacco and cigarette papers, fireworks and pornographic images). It is good practice also to inform parents of other searches and the reasons for them.
- The member of staff can use their discretion to confiscate, retain and/or destroy any item found as a result of a 'without consent' search so long as it is reasonable in the circumstances, in line with the policy statement above.
- The law protects members of staff from liability in any proceeding brought against them for any loss of or damage to, any item they have confiscated, provided they acted lawfully.

DISPOSAL OF CONFISCATED ITEMS

- Anything the person conducting the search has 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 can be removed by a member of staff.
- Alcohol can be retained or disposed of.
- Controlled drugs must be delivered to the police as soon as possible, unless there is good reason why not, in which case the drugs must be disposed of. If staff are unsure as to the legal status of a substance and have reason to believe it may be a controlled drug they should retain it as evidence (unless of course the circumstances make disposal safer than retention for the staff member involved).
- In the event of finding other substances not believed to be controlled drugs, these can be confiscated where a member of staff believes them to be harmful or detrimental to good order and discipline.
- High value (Laptops/Airpods) or illegal (alcohol/fireworks) or stolen items must be delivered to the police unless there is good reason not to, in which case the stolen item should be returned to the owner.
- Any weapons or items which are evidence of an offence must be passed to the police as soon as possible.

STRIP SEARCHES

- A strip search is a search involving the removal of more than outer clothing (see above).
- Strip searches on school premises can only be carried out by police officers, but the school retains a duty of care the student at all times.
- Before calling the police to the school to investigate a matter that may require a search, any member of staff must refer the matter to the Headteacher, DSL or one of the Deputy Headteachers. The decision about whether to involve the police will be theirs.
- If the police become involved, members of school staff must be present at all stages and parents/carers must be fully informed in advance of any search being carried out. The school must ensure that this happens, even if the police do not choose to do so, unless informing parents will put the child at risk.
- Full attention to be paid to the full Guidance on any strip searches conducted by police in school.
- School staff can seize any prohibited item found as a result of a search. They can also seize any item, however found, which they consider harmful or detrimental to school discipline.

DfE, 2012

PROHIBITED ITEMS

If any prohibited items are found as a result of a search members of staff will be required to confiscate them immediately and take the item(s) to the appropriate Key Stage Office or office of the Assistant Headteacher – Pastoral where they will be dealt with lawfully through the following procedure:

1. Where a person conducting a search finds **alcohol**, it is retained or disposed of.
2. Where they find **controlled drugs**, these must be delivered to the police through the Safer Schools Partnership School Based Officer. They are to be placed in a sealed drugs bag with the details completed on them and then stored in the school safe until a time that they can be taken to the local police station to be destroyed.
3. 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.
4. Where they find **stolen items**, these must be delivered to the police through the Safer Schools Partnership School Based Officer 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.
5. Any **weapons or items which are evidence of an offence** must be passed to the police through the Safer Schools Partnership School Based Officer as soon as possible.
6. All other prohibited items are to be disposed of appropriately so as not to allow others access to or use of the items.

It is up to the Senior Leadership Team of Tytherington School to decide whether there is a 'good reason' not to deliver stolen items to the police through the Safer Schools Partnership School Based Officer.

In determining what 'good reason' is, 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.

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.

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 (e.g. iPods/laptops) or illegal (e.g. alcohol/fireworks).

Schools can dispose of alcohol and cigarettes as they think appropriate, but this does not include returning it to the pupil.

INFORMING PARENTS & DEALING WITH COMPLAINTS

Schools are not required to inform parents before a search takes place or to seek their consent to search their child.

There is no legal requirement to make or keep a record of a search but it is Tytherington School's policy is to keep a record through the recording of searches.

Tytherington School will inform the individual pupil's parents or guardians where prohibited items are found, though there is no legal requirement to do so.

Complaints about screening or searching should be dealt with through the normal school complaints procedure.