



ALDENHAM FOUNDATION

**POLICY ON SEARCHING PUPILS
AND/OR PROPERTY**

**Reviewed May 2022
by Deputy Head - Pastoral and Co-curricular (EEM)**

Scope

This policy applies to all pupils at the School.

This policy is based on guidance outlined in DfE publication “Searching, screening and confiscation Advice for headteachers, school staff and governing bodies” (January 2018).

Aims

It may be necessary to carry out a search of a pupil’s person, possessions or locker in order to protect and safeguard pupils against weapons, to regulate against prohibited substances in school, to look for stolen/mislaidd property or to eliminate pupils from enquiries/remove suspicion.

Searching

School staff can search a pupil for any item if the pupil agrees.

Headteachers and staff authorised by them 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, vaping or related paraphernalia
- fireworks
- pornographic images
- any article that the member of staff reasonably suspects has been, or is likely to be, used:
 - to commit an offence;
 - to cause personal injury; or
 - to damage the property of any person (including the pupil themselves)
- any other item/substance which may be illegal or prohibited in School.

Confiscation

School staff can seize any prohibited item found as a result of a search. They can also seize any item they consider harmful or detrimental to school discipline.

Schools’ obligations under the European Convention on Human Rights (ECHR)

Under article 8 of the European Convention on Human Rights, pupils have a right to respect for their private life. In the context of these particular powers, this means that pupils have the right to expect a reasonable level of personal privacy.

The right under Article 8 is not absolute, it can be interfered with but any interference with this right by a school (or any public body) must be justified and proportionate.

The powers to search in the Education Act 1996 are compatible with Article 8. A school exercising those powers lawfully should have no difficulty in demonstrating that it has also acted in accordance

with Article 8. This advice will assist schools in deciding how to exercise the searching powers in a lawful way.

Investigation Procedure

- Investigation of a complaint or rumour about possession of prohibited items will normally be carried out by the HSM in consultation with the Deputy Head – Pastoral & Co-curricular (DHPC) or member of SMT; its outcome will be reported to the Head of Senior School.
- The School will seek to resolve the problem without having to resort to a search. If there is any suspicion that pupils may be in possession of prohibited items, every effort should be made to persuade them to hand over the items voluntarily.
- “Possession” in relation to a pupil, includes any goods over which the pupil appears to have control.
- Staff have a statutory power, as agreed by the Headmaster, to search their pupils in School, or elsewhere when on authorised school activities, for prohibited items.
- If a search of a pupil’s personal possessions is carried out, the Head of Senior School/DHPC should be informed, ideally before the event, but otherwise as soon as possible afterwards. Depending on the circumstances, permission for such a search should initially be sought from the suspect however this is not a requirement. If such permission is not forthcoming, parents/guardians may be contacted. It is NOT necessary to obtain consent before conducting a search, but it is advisable. It is, however, deemed good practice to advise parents, after the event, that a search has taken place and the reasons behind it. If prohibited materials are found, a record of the search will be made and kept on file. Ideally this would be dated and signed by all parties present.
- A teacher may instruct a pupil to turn out the contents of his/her pockets. Ideally this will be in the presence of another member of staff. If the pupil refuses they should be offered the opportunity to turn out their pockets in the presence of a staff member of the same gender. A continued refusal may result in disciplinary measures.
- The School may decide to search a pupil’s space and belongings, locker or bag if it is considered there are reasonable grounds for suspicion. The search MUST be carried out by a member of staff of the same gender as the pupil, and in the presence of another staff member. Clothing will not be searched until it has been removed from the wearer and care will be taken to ensure reasonable privacy. This policy does not authorise an intimate search or physical compulsion in removing clothing.
- If the school decides a search would not be safe, they should call the police.
- Any prohibited item found will be confiscated and may be placed in a clear plastic bag and sealed so that the article can be clearly seen. The seal will be signed with date and time and countersigned by those present. If appropriate the seized articles will be reported to the police and a disposal procedure agreed. A written record of the search will be kept and countersigned by those present.
- If a search reveals any ‘evidence in relation to an offence’ the School is obliged to contact the police. The school has no discretion over this, not even if the Headmaster wishes to resort to internal disciplinary procedures only.

- Teachers should on no occasion search a pupil physically or engage in a physical confrontation. If a pupil refuses to empty his/her pockets when asked and there is genuine suspicion that he/she is concealing drugs or weapons the DHPC, the Head of the Senior School or another member of Senior Management Team should be contacted and, if necessary, they will call the police.

Screening

What the law allows:

- Schools can require pupils to undergo screening by a walk-through or hand-held metal detector (arch or wand) even if they do not suspect them of having a weapon and without the consent of the pupils.
- Schools' statutory power to make rules on pupil behaviour and their duty as an employer to manage the safety of staff, pupils and visitors enables them to impose a requirement that pupils undergo screening.

Any member of school staff can screen pupils.

Also note:

If a pupil refuses to be screened, the School may refuse to have the pupil on the premises. Health and safety legislation requires a school to be managed in a way which does not expose pupils or staff to risks to their health and safety and this would include making reasonable rules as a condition of admittance.

If a pupil fails to comply, and the School does not let the pupil in, the School has not excluded the pupil and the pupil's absence should be treated as unauthorised. The pupil should comply with the rules and attend.

This type of screening, without physical contact, is not subject to the same conditions as apply to the powers to search without consent.

Searching with consent

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

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.

A list of banned items is specified in the Behaviour Policy. 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 and if the pupil refuses, the teacher will refer the matter to the HSM and the DHPC.

A pupil refusing to co-operate with such a search raises the same kind of issues as where a pupil 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 penalty.

Searching without consent

What the law says:

What can be searched for without consent?

- 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 to commit an offence, or to cause personal injury, or damage to property
- Any item banned by the school rules which has been identified in the rules as an item which may be searched for

Who can search?

The Head of Senior School or a member of school staff authorised by the Head of Senior School e.g. A member of the Senior Leadership Team or Housemaster/Housemistress.

Under what circumstances?

The member of staff conducting the search must be the same sex as the pupil being searched; and there must be a witness (also a staff member) and, if possible, they should be the same sex as the pupil being searched.

Exception to this rule. A search of a pupil of the opposite sex to the member of staff can be carried out and / or without a witness present, but only where the member of staff reasonably believes that 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.

When can the search take place?

If there are reasonable grounds for suspecting that a pupil is in possession of a prohibited item.

Establishing grounds for a search

Teachers can 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 suspect that the pupil is concealing a prohibited item.

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.

The powers allow school staff to search regardless of whether the pupil is found after the search to have that item. This includes circumstances where staff suspect a pupil of having items such as illegal drugs or stolen property which are later found not to be illegal or stolen.

School staff may wish to consider utilising CCTV footage in order to make a decision as to whether to conduct a search for an item.

Location of a search

Searches without consent can only be carried out on the school premises or, if elsewhere, where the member of staff has lawful control or charge of the pupil, for example on school trips or visits.

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.

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.

If a pupil does not consent to a search (or withdraws consent) it is still possible to conduct a search without consent but only for the “prohibited items” listed above.

Use of force

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.

Separate advice is available on teachers’ power to use force – see Associated Resources section below for a link to this document

The power to seize and confiscate items – general

What the law allows:

Schools’ general power to discipline, as circumscribed by Section 91 of the Education and Inspections Act 2006, enables a member of staff to confiscate, retain or dispose of a pupil’s property as a disciplinary penalty, where reasonable to do so.

Also note:

The member of staff can use their discretion to confiscate, retain and/or destroy any item found as a result of a search so long as it is reasonable in the circumstances. Where any article is reasonably suspected to be an offensive weapon, it must be passed to the police.

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.

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

What the law says:

A person carrying out a search can seize anything they have reasonable grounds for suspecting is a prohibited item or is evidence in relation to an offence.

Where a person conducting a search finds alcohol, they may retain or dispose of it. This means that schools can dispose of alcohol as they think appropriate, but this should not include returning it to the pupil.

Where they find controlled drugs, these must be delivered to the police as soon as possible but may be disposed of if the person thinks there is a good reason to do so.

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.

Where they 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 may retain or dispose of them. As with alcohol, this means that schools can dispose of tobacco or cigarette papers as they think appropriate, but this should not include returning them to the pupil.

Fireworks found as a result of a search may be retained or disposed of but should not be returned to the pupil.

If a member of staff finds a pornographic image, they may dispose of the image unless they have reasonable grounds to suspect that 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.

Where an article that has been (or is likely to 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.

Where a member of staff finds an item which is banned under the school rules they should take into account all relevant circumstances and use their professional judgement to decide whether to return it to its owner, retain it or dispose of it.

Any weapons or items which are evidence of an offence must be passed to the police as soon as possible.

Statutory guidance on the disposal of controlled drugs and stolen items

It is up to the teachers and staff authorised by them 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 State:

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.

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 or illegal.

Statutory guidance for dealing with electronic devices

Where the person conducting the search finds an electronic device that is prohibited by the school rules or that they reasonably suspects 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 device 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, unless they are going to give the device to the police. This power applies to all schools and there is no need to have 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, or being likely to be, used to commit an offence or cause personal injury or damage to property.

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 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.

If a staff member does not find any material that they suspect is evidence in relation to an offence, and decides not to give the device to the police, they can decide whether it is appropriate to delete any files or data from the device or to retain the device as evidence of a breach of school discipline.

All school staff should be aware that behaviours linked to sexting put a child in danger. Governing bodies should ensure sexting and the school’s approach to it is reflected in the child protection

policy. The UK Council for Child Internet Safety 4 Section 62 of the Coroners and Justice Act 2009 defines prohibited images of children. Section 63 of the Criminal Justice and Immigrations Act 2008 defines extreme pornographic images.

Teachers should also take account of any additional guidance and procedures on the retention and disposal of items that have been put in place by the school.

Telling parents and 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.

Schools should inform the individual pupil's parents or guardians where alcohol, illegal drugs or potentially harmful substances 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.

Further sources of information

Associated resources (external links)

- [Use of Reasonable Force - advice for headteachers, staff and governing bodies Behaviour and Discipline in Schools](#)
- [Behaviour and Discipline in Schools - advice for head teachers and school staff](#)
- [Information Commissioner for advice on the Data Protection Act](#)
- [Keeping children safe in education statutory guidance for schools and colleges](#)
- [UK Council for Child Internet Safety- UKCCIS Sexting in schools and colleges - responding to incidents and safeguarding young people](#)

Legislative links

- [The Education Act 1996](#)
- [Education and Inspections Act 2006](#)
- [Education \(Independent School Standards\) \(England\) Regulations 2010](#)
- [The Schools \(Specification and Disposal of Articles\) Regulations 2012](#)
- [School Behaviour \(Determination and Publicising of Measures in Academies\) Regulations 2012](#)
- [Health and Safety at Work etc Act 1974](#)