



Screening, Search and Confiscation Policy

This policy is in accordance with the [Department for Education, Searching, screening and confiscation advice for schools, January 2018](#) and covers:

- Our powers of screening and searching students including our powers to search students without consent
- Our powers to seize and confiscate items found during search
- Our statutory responsibilities in regards to this

Search

We can search any student for any item with their consent.

The Chief Executive can give authorisation to search students or their possessions, without consent, where we have a reasonable grounds for suspecting that the student may have a prohibited item, being:

- knives or weapons
- alcohol
- illegal drugs
- stolen items
- 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 to, or damage to the property of, any person (including the student).
- The Chief Executive and authorised staff can also search for any item banned by the our rules which has been identified in the rules as an item which may be searched for.
- The Chief Executive authorises any staff who have full Enhanced Disclosure to conduct search, wherever possible with a second colleague as a witness, and wherever possible being the most senior member of staff available.

Confiscation

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 discipline.

Our obligations under the European Convention on Human Rights (ECHR)

- Under article 8 of the European Convention on Human Rights students have a right to respect for their private life. In the context of these particular powers, this means that students 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. An educational provider exercising those powers lawfully should have no difficulty in demonstrating that it has also acted in accordance with Article 8.



Screening: what the law allows:

- We require students to undergo screening by a walk-through or hand-held metal detector (arch or wand) even if we do not suspect them of having a weapon and without the consent of the students.
- Our statutory power to make rules on student behaviour and our duty as an employer to manage the safety of staff, students and visitors enables us to impose a requirement that students undergo screening.
- Any member of our staff can screen students.

Also note:

- If a student refuses to be screened, we may refuse to have the student on the premises. Health and safety legislation requires an educational provider to be managed in a way which does not expose students or staff to risks to their health and safety and this would include making reasonable rules as a condition of admittance.
- If a student fails to comply, and we do not let the student in, we have not excluded the student and the student's absence should be treated as unauthorised.
- The student 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

Our common law powers to search:

- Staff can search students with their consent for any item.

Also note:

- We are not required to have formal written consent from the student for this sort of search – it is enough for the teacher to ask the student to turn out his or her pockets or if the teacher can look in the student's bag or locker and for the student to agree.
- We must make clear in our behaviour policy and in communications to parents and students what items are banned.
- If a member of staff suspects a student has a banned item in his/her possession, they can instruct the student to turn out his or her pockets or bag and if the student refuses, the teacher can apply an appropriate punishment as set out in our behaviour policy. [LINK](#)
- A student refusing to co-operate with such a search raises the same kind of issues as where a student refuses to stay in a detention or refuses to stop any other unacceptable behaviour when instructed by a member of staff – in such circumstances, we can apply an appropriate disciplinary penalty.

Searching without consent

What the law says:

What can be searched for?

- Knives or weapons, alcohol, illegal drugs and stolen items; and fireworks and pornographic images; and
- 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; and
- Any item banned by our rules which has been identified in the rules as an item which may be searched for.



1. Can I search?

Yes, if you are member of our staff and authorised by the Chief Executive.

2. Under what circumstances?

- You must be the same sex as the student being searched; and there must be a witness (also a staff member) and, if possible, they should be the same sex as the student being searched.
- There is a limited exception to this rule. You can carry out a search of a student of the opposite sex to you and / or without a witness present, but only where you reasonably believe that there is a risk that serious harm will be caused to a person if you do not conduct the search immediately and where it is not reasonably practicable to summon another member of staff.

3. When can I search?

- If you have reasonable grounds for suspecting that a student is in possession of a prohibited item.
Also note:
- The law also says what must be done with prohibited items which are seized following a search.
- The requirement that the searcher is the same sex as the student and that a witness is present will continue to apply in nearly all searches. Where it is practicable to summon a staff member of the same sex as the student and a witness then the teachers wishing to conduct a search must do so.

4. Authorising members of staff

- The Chief Executive will decide who to authorise to use these powers. There is no requirement to provide authorisation in writing.
- Staff, other than security staff, can refuse to undertake a search. The law states that the Chief Executive may not require anyone other than a member of our security staff to undertake a search.
- Staff can be authorised to search for some items but not others; for example, a member of staff could be authorised to search for stolen property, but not for weapons or knives.
- The Chief Executive can require a member of our security staff to undertake a search.
- If a security guard, who is not a member of our staff, searches a student, the person witnessing the search should ideally be a permanent member of our staff, as they are more likely to know the student.

5. Training for staff

- When designating a member of staff to undertake searches under these powers, the Chief Executive should consider whether the member of staff requires any additional training to enable them to carry out their responsibilities.

6. Establishing grounds for a search

- Teachers can only undertake a search without consent if they have reasonable grounds for suspecting that a student 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 students talking about the item or they might notice a student behaving in a way that causes them to suspect that the student is concealing a prohibited item.
In the exceptional circumstances when it is necessary to conduct a search of a student of the opposite sex or in the absence of a witness, the member of staff conducting the search should bear in mind that a student's expectation of privacy increases, as they get older.



- The powers allow staff to search regardless of whether the student is found after the search to have that item. This includes circumstances where staff suspect a student of having items such as illegal drugs or stolen property which are later found not to be illegal or stolen.
- Staff may wish to consider utilising CCTV footage in order to make a decision as to whether to conduct a search for an item.

7. Searches for items banned by our rules

- An item banned by our rules may only be searched for under these powers if it has been identified in our rules as an item that can be searched for.
- As an alternative provision provider, our rules must be determined in accordance with the School Behaviour (Determination and Publicising of Measures in Academies) Regulations 2012. Separate advice on school rules is available in 'Behaviour and Discipline – advice for Headteachers and school staff'.
- Under section 89 and the School Behaviour (Determination and Publicising of Measures in Academies) Regulations 2012 the Chief Executive must publicise our behaviour policy, in writing, to staff, parents and students at least once a year.

8. Location of a search

- Searches without consent can only be carried out on our premises or, if elsewhere, where the member of staff has lawful control or charge of the student, for example on educational trips in England or in training settings.
- The powers only apply in England.

During the search

9. Extent of the search – clothes, possessions, desks and lockers

What the law says:

- The person conducting the search may not require the student 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 student has or appears to have control – this includes desks, lockers and bags.
- 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 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.

10. Lockers and desks

- Under common law powers, educational providers are able to search lockers and desks for any item provided the student agrees. We can also make it a condition of having a locker or desk that the student consents to have these searched for any item whether or not the student is present.



- If a student does not consent to a search (or withdraws consent having signed a consent form) then it is possible to conduct a search without consent but only for the “prohibited items” listed above.

11. 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, 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 our rules.
- Separate advice is available on teachers’ power to use force – see Associated Resources section below for a link to this document

After the search

12. The power to seize and confiscate items – general

What the law allows:

- Our 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 student’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 ‘with consent’ 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.

13. 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 we can dispose of alcohol as they think appropriate but this should not include returning it to the student.
- 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.
- Fireworks found as a result of a search may be retained or disposed of but should not be returned to the student.
- 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 our 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.

14. 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, staff may judge it appropriate to contact the police if the items are valuable (iPods/laptops) or illegal (alcohol/fireworks).

15. Statutory guidance for dealing with electronic devices

- Where the person conducting the search finds an electronic device that is prohibited by our 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 educational providers 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 our 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 our rules.
- If an electronic device that is prohibited by our 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 discipline.

All staff should be aware that behaviours linked to sexting put a child in danger. Governing bodies should ensure sexting and the our approach to it is reflected in the child protection policy. The UK



Council for Child Internet Safety 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. (UKCCIS) Education Group has recently published the advice - sexting in schools and colleges - responding to incidents and safeguarding young people.

Also note:

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

Telling parents and dealing with complaints

- We 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.
- We should inform the individual student'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 our normal complaints procedure:
 - [Complaints procedure](#)
 - [Complaints form](#)