



Confiscation & Search Policy

Introduction

The Mayflower Federation is committed to providing a safe and secure environment for children, staff and visitors. We appreciate that pupils have a right to expect a reasonable level of personal privacy and will do its utmost to ensure that, as far as possible, this right is respected. However, the school also takes seriously its obligation under health and safety legislation to be managed in a way which does not expose pupils or staff members to unnecessary risks.

AIMS of the Policy

- **To support the guidance from the DFE 2012 called ‘Screening Searching and confiscation – Advice for head teachers, staff and governing bodies’**
- **To outlines schools’ powers to screen and search pupils, in particular searching pupils without consent.**
- **To explain the powers schools have to seize and then confiscate items found during a search.**

Authorised Staff

Staff members authorised by the headteacher with search powers are:

Ilderton School

Miss Askins
Ms Murdoch
Ms Jeffrey
Ms Reefer
Mr Smith

Phoenix School

Mr Assig
Ms Thomas
Ms Hayes
Mrs Mutter
Ms Joines
Ms Duffy

Confiscation

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. Confiscation of a mobile phone is legitimate – however searching through a phone or accessing text messages without a pupil’s permission is not.

List of banned items

- Mobile phones of any kind
- I-pods or personal music devices of any kind
- Gaming equipment such as Nintendo DS, or the games themselves
- Jewellery or personal adornments that do not fit with the uniform code e.g. bracelets, chains, earrings that are not studs.
- Football or any kind of trading cards
- Toys (where not used in any lesson or learning)
- Sweets, including chocolate
- Gum of any kind
- All items on the list in the confiscation policy

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.

Searching

Searching with Consent

Schools' common law powers to search:

Teachers or someone who has lawful control or charge of the child (See the authorised list above), can search pupils **with their consent** for any item.

Also note:

- 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.
- Schools should make clear in their school behaviour policy and in communications to parents and pupils what items are banned.
- 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 can apply an appropriate punishment as set out in the school's behaviour policy.
- 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:

- Knives or weapons, alcohol, illegal drugs and stolen items
- Tobacco and cigarette papers, fireworks and 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 property
- Any item banned by the school rules which has been identified in the rules as an item which may be searched for.

If you do search a pupil then you must ensure that:

- the search is carried out by an authorised member of staff.
- there must be a witness to the search
- the gender identity of both the members of staff and pupils involved is respected.
- the pupil should be allowed to choose the gender of the person conducting the search.

However, you can carry out a search of a pupil without allowing the pupil to choose the gender of the member of staff and without a witness present, but **only** where you reasonably believe that there is a risk that **serious and immediate 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.

When searching a pupil you must first ask them to give you the item. If this is refused then we can conduct a search without consent for banned items provided the above rules are followed. We can do this because we have an explicit list of items that are banned. Pupils who refuse to comply with an instruction to give the item will be given a sanction for failure to follow a reasonable instruction.

Establishing Grounds for a Search

Teachers can only 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 be suspicious.

In the exceptional circumstances when it is necessary to conduct a search of a pupil, 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 can view CCTV footage in order to make a decision as to whether to conduct a search for an item.

The Federation can search for any item that has been listed as being banned in the behaviour policy. This includes mobile phones or other electronic devices and sweets, chewing gum, bubble gum. The search must take place on school premises

Extent of the search – clothes, possessions, desks, trays

We will 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
- Possessions means any goods over which the pupil has or appears to have control – they can only be searched in the presence of the pupil and another member of staff (see exceptions to this above)
- We will not use force to conduct a search except where we suspect possession of knives, weapons, alcohol, illegal drugs, stolen items, tobacco, cigarette papers, fireworks, pornographic images, or articles that could be used to commit an offence or cause harm.

Telling parents

Schools are not required to inform parents before a search takes place or to seek their consent to search their child. However if a search is conducted and an item has been confiscated that the parent is required to collect, a phonecall and/or letter will be made to the parent informing them of what has happened.

There is no legal requirement to make or keep a record of a search – although we will record on our green forms that an item has been confiscated after a search if the parents are required to pick it up.

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.

Confiscation

Section 91 of the Education and Inspections Act 2006 gives members of staff the right to confiscate items, retain and/or dispose of items. Schools should follow these guidelines:

- Confiscation of property as a disciplinary sanction is in our behaviour policy
- To be lawful, confiscation must be a reasonable sanction in the circumstances of the particular case.
- Whether or not we retain or dispose of items must also be reasonable

When is a seizure (confiscation) lawful?

When the member of staff has the authority to do it – this means that it must be justifiable on the basis that it is necessary in a democratic society by being:

- In pursuance of a legitimate aim, and
- Proportionate

The legitimate aim pursued in confiscating property is maintaining an environment that is conducive to learning, and safeguarding the rights of the other pupils to be educated

What is proportionate?

This depends on the value of the property. Something that is valuable should be confiscated and stored securely. The Federation will return valuable items to the parent directly only.

Item	What will happen
Mobile phone	Stored securely and given back to the parents/carers only Please refer to the e-safety policy also
Sweets or chocolate of any kind	Disposed of
Any other food items being eaten at inappropriate times of the school day	Disposed of
I-pod, i-pod shuffle, any other music or radio device, gaming equipment and games themselves (other items of value)	Stored securely and given back to the parents carers only
Trading cards, toys	Stored securely and given back to the child at the end of the day to take home
Inappropriate items of jewellery not covered in our uniform policy	Stored and given back to the child at the end of the day (repeated incidences will be dealt with under the behaviour/uniform policy)
Non uniform item of clothing	Given back to child at the end of the day (repeated incidences will be dealt with under the behaviour/uniform policy)

What is a reasonable sanction?

We view confiscation as a reasonable sanction where items being removed are:

- on the banned list of items within our behaviour policy.
- a threat to others e.g. a laser pen being used to distract or possible harm pupils or staff
- threatening good order for learning e.g. a pupil texting in class
- against school uniform rules e.g. baseball caps
- a threat to health and safety e.g. pupil wearing inappropriate earrings in school
- on the above list that we can search without consent for.

Jewellery and clothing

We will not confiscate items that are of any religious, medical or cultural significance. We will not confiscate clothing items where the child is left partially dressed. This does not extend to hoodies or jumpers that are not uniform. A child in a shirt and tie does not constitute being partially dressed.

Trainers

The uniform policy is clear on the type of footwear that is acceptable. Children who repeatedly ignore this rule and come to school in inappropriate footwear will be asked to remove their footwear and given school plimsolls to wear for the day. The shoes will be returned to the child at the end of the school day.

Dealing with electronic devices

In determining a good reason to examine or erase the data or files the staff member must 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 inappropriate material is found on the device it is up to the teacher to decide whether they should delete that material, retain it as evidence, or whether the material is of such seriousness that it requires the involvement of the police.

Confiscating items that you can search without consent for:

This refers to alcohol, controlled drugs, other substances that may be harmful to good order and discipline, fireworks, stolen items, tobacco, cigarette papers, pornographic images, a weapon of any kind,

Item	What the Federation will do with it
Alcohol	Confiscate and discard the liquid – show the bottle to parents
Fireworks	Confiscate and discard safely
Controlled drugs	Confiscate and report to the police.
Other substances	Confiscate and discard – inform parents
Stolen items	Confiscate and keep for any police investigation. If no police involvement return to the original owner
Tobacco	Confiscate and discard – inform parents
Cigarette Papers	Pornographic images – confiscate the paper images or the electronic device upon which the images are stored. Report to the police if necessary. If not necessary then delete the images, shred the images and inform the parents.
Weapon of any kind	(as defined in section 45 of the Violent Crime Reduction Act 2006) The police will be called to search where possible and any items found will be retained by them. This includes any evidence of an offence.
Pornographic images	Confiscated and discarded unless its possession constitutes a specified offence