

Marden Primary School

Searching, Screening and Confiscation at School



Approved by: Tracy Thomas

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Background

This policy is based on the Department for Education advice for headteachers, school staff and governing bodies 'Searching, screening and confiscation' DfE January 2018

Objectives of this policy

To outline the policy and legal powers the schools has for screening and searching pupils.

It also outlines the powers the school has to seize and then confiscate items found during a search.

Searching

- The law allows school staff to search a pupil for any item if the pupil agrees.
- The headteacher, Deputy Head or other member of the Leadership Team 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 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 to, or damage the property of, any person (including the pupil).
- The headteacher and authorised staff can also search for any item banned by the school rules, which has been identified as an item which may be searched for.

Guidance to staff:

Searching with consent:

- School staff can search pupils with their consent for any item
- Formal written consent is not required from the pupils (such as asking the pupils to turn out his or her pockets or if the teacher can look in a pupils' bag or locker and for the pupil to agree.
- School staff will remind parents of items which are banned
- If a member of staff suspects a pupil has a banned item in his/her 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 is a form of unacceptable behaviour, and in such circumstances, the school will apply an appropriate disciplinary penalty.

- Searching with consent:
- What can be searched for?
- Knives, weapons, alcohol, illegal drugs and stolen items; and
- Tobacco and cigarette papers, fireworks and pornographic images; and
- electronic devices, without consent or parental permission, if there is a suspicion that the pupil has a device prohibited by school rules, or the staff member has good reason to suspect the device may be used to:
 - cause harm,
 - disrupt teaching,
 - break school rules,
 - commit an offence,
 - cause personal injury,
 - or damage property.
- Any article that the member of staff reasonably suspects has been, or is likely to be, used to commit an offence, or cause personal injury to, or damage to property; and
- Any item banned by the school rules which has been identified in the rules as an item which may be searched for.
- A member of staff must be the same sex as the pupil being searched; and there must be a witness (also a member of staff) and, if at all possible, they should be the same sex as the pupil being searched.
- 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 pupils, for example on school trips in England.
- Any data, files or images that are believed to be illegal must be passed to the police as soon as practicable, including pornographic images of children, without deleting them.
- Any data, files or images that are not believed to be unlawful, may be deleted or kept as evidence of a breach of the school's behaviour policy.

During the search

The law states:

- The person conducting the search may not require the pupils to remove 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 pupils 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 pupils 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.
- It does NOT enable or allow an intimate search going further than that, which only a person with more extensive powers (e.g. police officer) can do

- 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.
- The school will 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.
- If inappropriate material is found on a pupil's device by the teacher, the Designated Safeguarding Lead will decide whether they should delete that material, retain it as evidence (of a criminal offence or a breach of school discipline) or whether the material is of such seriousness that it requires the involvement of the police.

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.

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 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 must be justified and proportionate.

The powers of search in the Education Act 1996 are compatible with Article 8. By Marden Primary School exercising these powers lawfully it must demonstrate that it has also acted in accordance with Article 8.

Schools have the statutory power to make rules on pupil behaviour as set out in Section 89 of the Education and Inspection Act 2006 for all maintained schools.

Screening

Schools can require pupils to undergo screening by a walk-through or hand-held metal detector. We do not have such devices.

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.

The advice will be kept under review and updated as necessary.

Useful Links

Download the guidance here: Searching, screening and confiscation at school (DfE, January 2018)

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/674416/Searching_screening_and_confiscation.pdf

This should be read alongside:

UKCCIS guidance, 'Sexting in schools and colleges: Responding to incidents and safeguarding young people' (January 2017)

<https://www.safeguardingschools.co.uk/responding-sexting-schools-colleges-ukccis/>