

Searching, screening and confiscation

Introduction

The DfE has reviewed and updated its [guidance on searching, screening and confiscation](#). This comes after the publication of the [Safeguarding Practice Review](#) report on the case of [Child Q](#), where a pupil was strip-searched without parental consent at school. The Safeguarding Practice Review highlighted the need to put safeguarding at the centre of a school's approach to handling searches.

The guidance is intended to explain the screening, searching and confiscating powers a school has, ensuring that headteachers and members of staff have the confidence to use these powers and schools are a calm, safe and supportive environment to learn and work. This publication includes statutory guidance which schools must have regard to and provides advice to headteachers and staff on their related legal duties when it comes to these powers.

The updated DfE guidance, applying from 1 September 2022, places a bigger emphasis on your safeguarding duty. This includes:

- A change in approach on which staff members can search pupils
- That you should record certain searches in your school's safeguarding system
- New guidance on what you should do before, during and after a search
- New guidance on strip searches and supporting the pupil afterwards
- That where possible, you should inform parents of a search for a prohibited item before you carry out a search. You should always inform parents of any search for prohibited items and the outcome as soon as practicable (the old guidance said you're not required to inform parents before a search or to seek their consent)
- The importance of staff understanding the rights of the pupil being searched

You have a duty of care to all pupils in your school.

This means that you should balance:

- The need to safeguard all pupils by confiscating harmful, illegal, or disruptive items
- The safeguarding needs and wellbeing of pupils suspected of possessing these items

Make sure your behaviour policy- and your staff - are clear on how you'll conduct searches and set out which staff members are authorised to conduct searches. On the face of it, there are inconsistencies in the updated DfE guidance on this. The underlying legislation has not changed, meaning that:

- Staff members have the power to search pupils for any item if the pupil agrees, under the common law (paragraph 4 of the DfE guidance). The DfE has advised that how this applies to a particular case will depend on the situation and your school policy. *Even though any staff member can conduct a search with the pupil's permission, it's best practice to only allow staff members who have been authorised by the headteacher to conduct searches.* This will give your school the best defence if you are later accused of carrying out improper searches, and help you uphold your safeguarding duties.
- Only the headteacher and members of staff authorised by the headteacher have the power to search a pupil for a prohibited or banned item, regardless of whether the pupil agrees (sections [550ZA and 550ZB](#) of the Education Act 1996, and paragraph 10 in the guidance).

Whatever your approach, make sure that your [behaviour policy](#) clearly states who will conduct searches, how you'll gain consent and what will happen if a pupil refuses to cooperate.

Under law:

- The person carrying out the search must be the same sex as the pupil being searched
- There must be another member of staff present as a witness to the search - they don't have to be the same sex as the pupil

The only exception is if:

- The searcher reasonably believes that there is a risk of serious harm being caused to a person if a search isn't carried out urgently and
- It's not reasonably practical to summon another member of staff (to carry out the search or act as a witness) within the time available

When an authorised staff member conducts a search without a witness, they should immediately report it to another member of staff, and make sure that a record is kept (see the section on how to record searches for more support).

Headteachers and authorised staff members can search a pupil for:

- Any items with the pupil's informed consent
- Prohibited or banned items, with or without the pupil's consent
- 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
 - Cause personal injury (including the pupil) or damage to property

This list is set out in [The Education Act 1996](#) and paragraph 3 of the DfE's guidance on searching, screening and confiscation.

Being in possession of a prohibited item – especially knives, weapons, illegal drugs or stolen items – may mean that the pupil is involved, or at risk of being involved, in anti-social or criminal behaviour including gang involvement, and in some cases may be involved in child criminal exploitation. A search may play a vital role in identifying pupils who may benefit from early help or a referral to the local authority children's social care services

The school's behaviour policy should outline the banned items for which a search can be made. This must include the list of prohibited items, and may include other items which a headteacher has decided are detrimental to maintaining high standards of behaviour and a safe environment.

If a pupil refuses to cooperate

In this case, the authorised member of staff should first consider why this is, and act proportionally. It may be that the pupil:

- Is in possession of a prohibited or banned item
- Doesn't understand your instructions or what a search will involve
- Has had a previous distressing experience of being searched

If the pupil still refuses to cooperate with a search for a prohibited item you may sanction them in line with your behaviour policy. However, the DfE advises that you should seek the informed cooperation of the pupil before any search. Where possible, you should avoid presenting the idea that a pupil can be sanctioned for refusing to consent to a search, as this may imply that the pupil didn't freely consent.

If you don't think that a search is needed urgently, seek advice from the headteacher, DSL or pastoral member of staff. During this time, the pupil should be supervised somewhere away from other pupils.

Assess whether it's necessary to use reasonable force to conduct the search. Consider whether this would prevent the pupil from harming themselves or others, damaging property or causing disorder. *Note: you can only use reasonable force to search for prohibited items but not other items banned in your school.*

How to record searches

You should make a record in your safeguarding reporting system of:

- Any searches for prohibited items
- Any search conducted by police officers

Record these whether or not any items were found.

Headteachers may also decide to record searches for other items banned by your school, but this should be followed consistently. Use your record to look for any trends in the searches carried out at your school, and to identify any possible risks that may require a safeguarding response.

What you can confiscate

Authorised staff members can confiscate any item they find that they have reasonable grounds for suspecting:

- Poses a risk to staff or pupils
- Is a prohibited or banned item
- Is evidence in relation to an offence

You will need to do different things with confiscated items, depending on what they are; the guidance gives information about this on pages 17 -19

Searching and confiscating electronic devices

Authorised staff members may examine any data or files on an electronic device that they have confiscated, if they have good reason to do so. You should reasonably suspect that the device has (or could be used to):

- Cause harm
- Undermine the safe environment of the school or disrupt teaching
- Commit an offence

If you discover inappropriate images, video, or other material, you should dispose of them unless you have reasonable grounds to suspect that their possession is related to a specific illegal offense. In this case, do not destroy the material. Instead, hand the material, or device containing the material, over to the police as soon as possible.

If you suspect you may find an indecent image or video of a child on a device, avoid viewing it and never copy, share, or save it. Refer the incident to your DSL and follow the DfE's [guidance](#) on responding to pornographic image-sharing in education settings.

Confiscation as a disciplinary penalty

Schools’ general power to discipline enables a member of staff to confiscate, retain or dispose of a pupil’s property as a disciplinary penalty, where reasonable to do so.

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

You can require pupils to be screened

Screening is the use of a walk-through or hand-held metal detector to scan all pupils before they enter the school site. You can require pupils to undergo screening. However:

- Before you consider installing and using any screening technology, you're encouraged to consult with your local police, as they may be able to provide advice about whether installing these devices is appropriate
- If you introduce new screening measures, you should inform pupils and parents in advance to explain what it will involve
- Make sure to make reasonable adjustments to the screening process where a pupil has a disability

In our school the following staff members are authorised to conduct searches and can confiscate prohibited and banned items:

Headteacher	

In addition to the list of prohibited items, the following items are banned in our school:

Additional guidance and further reading

- Searching, screening and confiscation – advice for schools (DfE July 2022)
- Keeping children safe in education –statutory guidance for schools and colleges (September 2023)
- Behaviour in schools guidance [Behaviour in schools - GOV.UK \(www.gov.uk\)](http://www.gov.uk)
- Use of reasonable force in schools [Use of reasonable force in schools - GOV.UK \(www.gov.uk\)](http://www.gov.uk)
- [School and college security - GOV.UK \(www.gov.uk\)](http://www.gov.uk)
- [Sharing nudes and semi-nudes: advice for education settings working with children and young people - GOV.UK \(www.gov.uk\)](http://www.gov.uk)