



SEARCHING POLICY

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> 1. Rationale

This policy has been prepared taking into account the Education Act 2016; and the DfE advice on 'Screening, Searching and Confiscation' (January 2018).

Merrywood Education is committed to safeguarding all children, staff and visitors within the school. In line with recent legislation the staff at Merrywood Education reserve the right to search students if they have reason to believe that they are carrying offensive weapons or illegal substances.

> 2. Searching

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

The ability to give consent may be influenced by the child's age or other factors.

The Executive Head and other authorised staff have a statutory power to search children or their possessions, without consent, where they have reasonable grounds for suspecting that the child may have a prohibited item.

> 3. Prohibited items

These are:

1. Knives or weapons.
2. Alcohol.
3. Illegal drugs.
4. Stolen items.
5. Tobacco and cigarette papers.
6. Fireworks.
7. Pornographic images.
8. 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 child).

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. Similarly, children may need to be physically restrained if they present a danger to themselves or other members of the community.

Searches will be carried out by trained members of staff and Parents/Carers will always be informed when this has happened. Where possible the parents should be contacted in advance. A list of staff designated to search should be displayed in the staff room and school office.

If inappropriate articles are brought in to school or used inappropriately they may be confiscated and kept in the school safe for collection at the end of the day. If these items are dangerous or illegal they will be handed to the Police for safe disposal. Merrywood Education works closely with the Police and our Executive Head has worked in partnership with them for over 6 years. If children are involved with any activity which breaks the law the police may be involved in the confiscation of items, group work and education as well as links with home.

Parents/Carers will always be informed when the police are involved and given the opportunity to attend any interviews. Similarly, the police will be involved if any child is suspected of having contact with an illegal substance. This includes possession, using or dealing. In such cases, the police will decide what course of action should be taken.

> 4. Privacy

Under article 8 of the European Convention on Human Rights children have a right to respect for their private life. In the context of these particular powers, this means that children 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 2016 are compatible with Article 8. Merrywood Education will exercise those powers lawfully and therefore demonstrate that it acts in accordance with Article 8.

> 5. Searching with consent - Schools' common law powers to search

The following list details the Common Law powers to search:

1. School staff can search children with their consent for any item.
2. Schools are not required to have formal written consent from the child for this sort of search – it is enough for the staff member to ask the child to turn out his or her pockets or if the staff member can look in the child's bag or locker and for the child to agree.
3. Items that are banned are made clear to children and parents.
4. If a member of staff suspects a child 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 child refuses, the teacher can apply an appropriate consequence as set out in the school's Behaviour Policy and inform the parent/carer.
5. A child refusing to co-operate with such a search raises the same kind of issues as where a student refuses to stop any other unacceptable behaviour when instructed by a member of staff – in such circumstances, schools can apply an appropriate consequence and inform the parent/carer.

> 6. Searching without consent – What can be searched for?

The following can be searched for without a child's consent:

1. Knives or weapons.
2. Alcohol.
3. Illegal drugs.
4. Stolen items.
5. Tobacco and cigarette papers.
6. Fireworks and pornographic images.
7. 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.
8. Any item banned by the school rules, which has been identified as an item which may be searched for.

> 7. Who can search?

The following list details some guidelines when considering who can conduct a search:

1. If you are a trained member of staff.
2. You must be the same sex as the child being searched.
3. There must be a witness (also a staff member) and, if at all possible, they should be
 - a. the same sex as the child being searched.
4. There is a limited exception to this rule. You can carry out a search of a child of
 - a. the opposite sex to you and without a witness present, but only where you reasonably
 - b. 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.

> 8. When can I search?

You can search:

1. If you have reasonable grounds for suspecting that a child is in possession of a prohibited item.
2. The requirement that the searcher is the same sex as the child 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 child and a witness then the staff members wishing to conduct a search must do so.
3. Staff can refuse to be nominated to undertake a search.
4. Training for school staff - When designating a member of staff to undertake searches under these powers, it should be considered whether the member of staff requires any additional training to enable them to carry out their responsibilities.
5. Establishing grounds for a search
6. Teachers can only undertake a search without consent if they have reasonable grounds for suspecting that a child may have in his or her possession a prohibited item. In reality, it is highly unlikely that staff will be expected to conduct a search of a child where consent has not been given. Wherever possible, the advice of the headteacher should always be sought in advance.
7. The teacher must decide in each particular case what constitutes reasonable grounds for suspicion. For example, they may have heard other children talking about the item or they might notice a child behaving in a way that causes them to be suspicious.
8. In the exceptional circumstances when it is necessary to conduct a search of a child of the opposite sex or in the absence of a witness, the member of staff conducting the search should bear in mind that a child's expectation of privacy increases as they get older.
9. The powers allow school staff to search regardless of the outcome of the search. 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.
10. Wherever possible or feasible, parents/carers should be contacted in advance of a search being carried out.

> 9. 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 child, for example on school trips in England or in training settings.

> 10. How we are allowed to conduct a search

Guidelines when conducting a search:

1. The person conducting the search is not permitted to ask the child 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. 'Outer clothing' includes hats; shoes; boots; gloves and scarves.
2. 'Possessions' means any goods over which the student has or appears to have control this includes desks, lockers and bags.
3. A child's possessions can only be searched in the presence of the child 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.
4. 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.
5. If a child 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, 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.

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 dispose of it. This means that schools can dispose of alcohol as they think appropriate but this must not include returning it to the child.

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. In this instance, it must be reported to the police. 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 child.

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

If a member of staff finds a pornographic image, they must report this to the Head of School to ensure that no offences or sexual offences have been committed (i.e. it is extreme or child pornography or would fall under sexual harassment or sharing nude pictures unlawfully) in which case it must be delivered to the police as soon as reasonably practicable. Images found on a mobile phone or other electronic device cannot be deleted so that any suspected offences can be reported directly to the police. Images, videos and any other content should be reported to the police and they will search the device. Staff will not search a device without police consent.

Where an article that has been (or could 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.

> 12. Telling parents/carers 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. However, in the interests of maintaining positive relationships with families, wherever practicable, parents/carers will be informed prior to a search taking place. There is no legal requirement to make or keep a record of a search but for good practice the school will maintain a record of all searches that take place. We will inform the individual child's parents or carers 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.

> 13. Further sources of information

- DfE - Use of Reasonable Force – advice for headteachers, staff and governing bodies.
- Behaviour and Discipline in Schools – advice for head teachers and school staff.
- The Education Act 2016.
- Education and Inspections Act 2006.
- Education (Independent School Standards) (England) Regulations 2015.
- The Schools (Specification and Disposal of Articles) Regulations 2012.

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