

Searching and Confiscation Policy



September 2023

Document Information	
Version Number	V6
Policy Operational Date	October 2022
Responsible Manager	Karen Croskery
Date Approved by Management Committee/Governing Body	October 2023
Signed	J McCarty – Chair of Management Group/Governors
Policy Review Date	November 2024

MAEPS is committed to safeguarding and promoting the welfare of the members of its community therefore, occasionally it may become necessary to search the person or the belongings of a pupil.

These instructions set out the circumstances in which such searches can be carried out and the means by which it should be done, in accordance with the Education and Inspections Act 2006 and DFE Guidance for Centres on Searching, Screening and Confiscation (February 2014). Any further updates from DFE Guidance will be incorporated as appropriate.

Life at NTSSS/Moorbridge PRU given pupils' good conduct overall and taking into account the very good relationships between pupils and staff, it is unlikely that searching pupils will be necessary. There are however some occasions when it might be; at those times, this policy should be followed.

Essentially there are two types of search those with consent and those without consent.

These searches are outlined below:

Searching with consent

- Staff can search pupils with their consent for any item which is banned by the Centre rules.
- Schools are not required to have formal written consent from the pupil for this sort of search.
- 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 pockets or if the teacher can look in his locker, desk, tray or bag. If the pupil refuses, the teacher can apply an appropriate punishment as set out in the Centre's behaviour policy.

Searching without consent

Items, known as 'prohibited items' which can be searched for under these powers are:

- 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 NTSSS/Moorbridge PRU rules which has been identified in the rules as an item which may be searched for.

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 pupil, for example on School trips in England or in training settings.

Who can carry out a search?

- The head teacher or a member of staff authorised by the head teacher, but there is no requirement to provide authorisation in writing;
- The person conducting the search must be the same sex as the pupil being searched and there must be a witness (also a staff member) and, if at all possible, they should be the same sex as the pupil being searched.
- There is a limited exception to this rule. You can carry out a search of a pupil of the opposite sex to you and 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.

When can a search be carried out?

- A search can be carried out without consent if there are reasonable grounds for suspecting that a pupil is in possession of a prohibited item.
- 'Reasonable grounds for suspicion' should be established in each case e.g. if a pupil has been overheard by a staff member talking about an item or they notice a pupil behaving in a way that causes them to be suspicious.

Searching a Pupil's Person

- The person conducting the search may not require the pupil to remove any clothing other than outer clothing which is defined as clothing that is not worn next to the skin or immediately over a garment that is being worn as underwear (includes hats; shoes; boots; gloves and scarves).
- A personal search involves only the removal of outer clothing and searching of pockets. A more intimate search going further than that can only be carried out by a person with extensive powers e.g. a police officer.
- In the exceptional circumstances when it is necessary to conduct a search of a pupil of the opposite sex or in the absence of a witness, 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.

Searches of a Pupil's Personal Property

There may be circumstances in which staff may wish to search a pupil's personal possessions. 'Possessions' means any goods over which the pupil has or appears to have control, such as a bag, desk, tray or locker.

- Under common law powers, if a pupil consents any item may be searched for. If a pupil does not consent to a search, it is only possible to search for the 'prohibited items' listed earlier.
- A pupil's possessions can only be searched in the presence of the pupil 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.

Use of reasonable 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 Centre rules.

After the search

The power to seize and confiscate items

- Schools' general power to discipline, as set out in Section 91 of the Education and Inspections Act 2006, 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 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 thought to be a 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.

Items found as a result of a 'without consent' search

- 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, tobacco, cigarette papers or fireworks they may retain or dispose of them but not return them to the pupil.
- 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' (not 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 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.
- 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 disposed of if the person thinks that there is a good reason to do so (i.e. they are of low value). However, school staff may judge it appropriate to contact the police if the items are valuable (iPods/laptops) or illegal (alcohol/fireworks).

- If a member of staff finds a pornographic image, they may dispose of the image unless 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 the person conducting the search finds an electronic device they may examine any data or files on the device if they think there is a good reason to do so. Following an examination, if the person has decided to return the device to the owner, or to retain or dispose of it, they may erase any data or files if they think there is a good reason to do unless it is necessary to pass them to the police. However, they must first consider whether the data or file could be used to cause harm, disrupt teaching or break the Centre rules.
- 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 Centre 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. NTSSS/Moorbridge PRU is committed to safeguarding and promoting the welfare of the members of its community. Accordingly there may be occasions when it becomes necessary to search the person or the belongings of a pupil. These instructions set out the circumstances in which such searches can be carried out and the means by which it should be done, in accordance with the Education and Inspections Act 2006 and DFE Guidance for schools on Searching, Screening and Confiscation (February 2014).
- On all occasions where Searching or Screening is carried out a record of this will be submitted by the member of staff responsible for carrying out this procedure