



# Miers Court Primary School

## Searching, Screening and Confiscation Policy

<b>Policy Scope:</b>	<b>Miers Court Primary School</b>
<b>Responsibility:</b>	<b>Local Academy Board</b>
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## **Statement of intent**

Miers Court Primary School appreciates that pupils have the 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.

Nevertheless, 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.

This policy sets out the framework in which the school will meet this obligation by outlining the circumstances in which pupils can be screened and searched. The policy also outlines the legal powers to seize and confiscate items during a search.

## 1. Legal framework

This policy has due regard to legislation and statutory guidance, including, but not limited to, the following: -

- Health and Safety at Work etc Act 1974
- Education Act 1996
- Education and Inspections Act 2006
- The Schools (Specification and Disposal of Articles) Regulations 2012
- The School Behaviour (Determination and Publicising of Measures in Academies) Regulations 2012
- European Convention on Human Rights
- DfE 2018 Searching, screening and confiscation
- DfE 2013 Use of reasonable force
- DfE 2016 Behaviour and discipline in schools
- DfE 2021 Keeping children safe in education 2021

This policy operates in conjunction with the following school and Trust policies: -

- Behaviour for Learning and Conduct Policy
- Physical Restraint and Reasonable Force Policy
- Complaints Procedures Policy
- Disciplinary Policy and Procedure
- Surveillance and CCTV Policy
- Whole School Safeguarding Policy
- Allegations of Abuse Against Staff Policy

## 2. Roles and responsibilities

The Head of School will be responsible for: -

- Authorising members of staff to search pupils
- Ensuring the procedures in this policy are implemented consistently across the school
- Reviewing this policy on an annual basis

The DSL will be responsible for managing any safeguarding concerns that are raised by staff members who have conducted a search and by pupils subject to a search.

Staff members will be responsible for acting in line with this policy when screening or searching a pupil or confiscating items.

## 3. Screening

Under the school's statutory power to make rules on pupil behaviour and the duty to manage the safety of staff, pupils and visitors, the school imposes a requirement that pupils undergo screening. All members of staff have the authority to screen pupils.

The screening of pupils by a walk through or hand held metal detector without their consent is permitted, even if it is not suspected that they are in possession of a weapon.

If a pupil refuses to be screened, the school may refuse to allow that pupil on the premises to protect the safety of other pupils and staff.

If a pupil fails to comply with being screened and the school does not allow the pupil onto the premises, the school has not excluded that pupil and the pupil's absence will be treated as unauthorised. The pupil should comply with the screening rules so that they can attend school.

Screening without physical contact is not subject to the same conditions as those that apply to the powers to search without consent.

#### **4. Searching with consent**

Any member of staff has the authority to search pupils for any item with their consent. Formal written consent is not required for this sort of search and verbal consent will suffice.

Items banned from the school premises are outlined in section 6 of this policy and are also listed in the school's Behaviour for Learning and Conduct Policy. The school will ensure that banned items are made clear in communications with parents.

If a member of staff suspects a pupil is in possession of a banned item, the pupil will be instructed to turn out their pockets or bag. If the pupil refuses to do this, the staff member will apply an appropriate punishment in line with the school's Behaviour for Learning and Conduct Policy.

#### **5. Authorising members of staff**

Only the Head of School and authorised members of staff have the authority to search pupils without their consent.

The Head of School is responsible for deciding who the authorised staff are.

Staff members are permitted to refuse to undertake a search.

Some staff members are authorised to search for some items but not others, eg a member of staff could be authorised to search for stolen property, but not weapons.

When deciding which staff will be authorised to undertake searches under these powers, the Head of School will consider whether the member of staff requires any additional training to enable them to carry out their responsibilities.

## 6. Searching without consent

The Head of School and authorised staff have the statutory power to search pupils or their possessions, without consent, where they have reasonable grounds for suspecting that the pupil may be in possession of a prohibited item. The staff member will decide what constitutes as reasonable grounds for suspicion on a case-by-case basis.

Prohibited items are: -

- Knives or weapons
- Alcohol
- Illegal drugs
- Stolen items
- Tobacco and cigarette papers
- Fireworks
- Pornographic images
- Any item that a 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.

Pupils will only be searched by staff members who are the same sex as them and all searches will be witnessed by another member of staff who will be, where possible, the same sex as the pupil being searched.

Staff will be made aware that where it is practicable to summon a staff member of the same sex as the pupil to conduct the search, this must be done.

A search will only be conducted by a person who is not the same sex as the pupil being searched, or without a witness, where the staff member reasonably believes that there is a risk of serious harm if the search is not conducted immediately and where it is not reasonably practicable to summon another member of staff. Under these exceptional circumstances, the member of staff conducting the search will consider that a pupil's expectation of privacy increases as they get older.

The school may consider the use of CCTV footage in order to decide whether to conduct a search of an item. Any CCTV usage will be conducted in line with the school's Surveillance and CCTV Policy.

An item banned by the school rules will only be searched for without consent if it is identified in the school rules that it is an item that can be searched for.

Banned items include: -

- Legal highs

- Aerosol cans
- Paint thinners
- Non-prescribed hypodermic needles

Searches without consent will only be carried out on the school premises or, if elsewhere, where the member of staff conducting the search has lawful control or charge of the pupil, eg on a school trip in England.

## 7. During the search

Definitions: -

- **Outer clothing** – clothing that is not worn next to the skin or immediately over a garment that is being worn as underwear, eg hats, shoes, gloves
- **Possessions** – any goods over which the pupil has or appears to have control, including desk, lockers and bags.

The person conducting a search will not ask the pupil being searched to remove any clothing other than outer clothing.

A pupil's possessions, their locker or desk will 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 if the search is not conducted immediately.

The power to search without consent enables a personal search, involving removal of outer clothing and the searching of pockets, but not an intimate search going further than that, which only a person with more extensive powers (ie a police officer) can do.

If a pupil does not consent to a search or withdraws consent having signed a consent form, then they may be subject to a search without consent but only for prohibited items.

Members of staff are permitted to use such force as is reasonable, given the circumstances, when conducting a search for prohibited items, but will not use force to search for items banned only under school rules.

Searches will be conducted in line with the Physical Intervention Policy.

## 8. After the search

Staff members are permitted to confiscate, retain and/or destroy any item found due to a search with the pupil's consent, so long as it is reasonable in the circumstances. Where any item is reasonably suspected to be an offensive weapon, it will be passed to the police.

Staff members are legally protected 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 search conducted without consent**

Staff members carrying out a search are permitted to seize any item they have reasonable grounds for suspecting is a prohibited item or is evidence in relation to an offence.

When a staff member conducting a search finds: -

- **Alcohol** – they will retain or dispose of the item as they see appropriate, the alcohol will not be returned to the pupil
- **Controlled drugs** – they will deliver them to the police as soon as possible; however, they may also be disposed of if the staff member thinks there is a good reason to do so
- **Other substances** which are not believed to be controlled drugs, they will confiscate them if they believe them to be detrimental to behaviour and discipline
- **Stolen items** – they will deliver these to the police as soon as possible or return them to the owner if they think there is a good reason to do so
- **Tobacco or cigarette papers** – they will retain or dispose of them; they will not be returned to the pupil
- **Fireworks** – they will be retained or disposed of, but not returned to the pupil
- **A pornographic image** – they will dispose of the image unless there are reasonable grounds to suspect that its possession constitutes a specified offence (ie the image is extreme child pornography); in these cases, the staff member will deliver the image to the police as soon as possible
- **An item that has been, or is likely to be, used to commit an offence or to cause personal injury or damage to property** – they will deliver the item to the police, return the item to the owner, or retain or dispose of the item
- **Weapons or items which are evidence of an offence** – they will pass the item to the police as soon as possible.

It is up to authorised staff to decide whether there is a 'good reason' not to deliver stolen items or controlled drugs to the police. In determining what a good reason is, the member of staff will take into account all relevant circumstances and use their professional judgement to determine whether they can safely dispose of the item.

Where the member of staff is unsure of the legal status of a substance and has reason to believe it may be a controlled drug, the item will be treated as such.



In relation to stolen items, the police will not be involved in dealing with low-value items (eg pencil cases); however, it may be appropriate for the school to contact the police if high-value items (eg laptops) or illegal items (eg fireworks) are involved.

## 9. **Electronic devices**

If an electronic device that is prohibited by the school rules or that is reasonably suspected to have been, or is likely to be, used to commit an offence or cause personal injury or damage to property is found during a search, the staff member is permitted to examine any data or files on the device where there is good reason to do so.

Parental consent is not required in order to search a pupil's phone if it has been seized in a 'without consent' search.

Staff members have the authority to delete data or files if they think there is a good reason to do so, unless the device is suspected to be relevant to an offence, or is a pornographic image of a child or an extreme pornographic image; in these cases, the device will be given to the police and files and data will not be deleted from the device prior to doing this.

It will be considered a good reason if the member of staff reasonably suspects that the data or file on the device has been, or could be, used to cause harm, to disrupt teaching or break the school rules.

Any electronic device that has been seized which is prohibited by the school rules, and there are reasonable grounds to suspect that it contains evidence relating to an offence, will be given to the police as soon as possible.

If a member of staff does not find any material they suspect is evidence in relation to an offence, and decides not to give the device to the police, they are permitted to decide whether it is appropriate to delete any files or data from the device or retain the device as evidence of a breach of school discipline.

### **Indecent images of pupils**

Staff will be aware that creating, possessing and distributing indecent imagery of children is a criminal offence, regardless of whether the imagery is created, possessed and distributed by the individual depicted; however, staff will ensure that pupils are not unnecessarily criminalised.

Where a member of staff becomes aware that an electronic device they are searching involves indecent images of a pupil, they will refer this to the DSL as soon as possible and will: -

- Refrain from viewing, copying, printing, sharing, storing or saving the imagery

- Tell the DSL immediately if they accidentally view an indecent image and seek support
- Explain to the pupil that the incident will need to be reported
- Not blame or shame anyone involved, and reassure the pupil that they can receive support from the DSL
- Report the incident to the DSL.

The DSL will attempt to understand what the image contains **without viewing it** and the context surrounding its creation and distribution – they will categorise the incident into one of two categories: -

- **Aggravated:** incidents which involve additional or abusive elements beyond the creation and distribution of indecent images of pupils, including where there is an adult involved, where there is an intent to harm the pupil depicted, or where the images are used recklessly
- **Experimental:** incidents involving the creation and distribution of indecent images of pupils where there is no adult involvement or apparent intent to cause harm or embarrassment to the pupil.

For there to be a good and clear reason to view imagery, the DSL would need to be satisfied that this action is: -

- The only way to make a decision about whether to involve other agencies because it is not possible to establish the facts, eg the contents of the imagery, from the pupil(s) involved
- Necessary to report it to a website, app or suitable reporting agency to have the image taken down, or to support the pupil or their parent in making a report
- Unavoidable because the pupil has presented the image directly to a staff member or the image has been found on a school device or your school's network.

Where it is necessary to view the imagery, eg if this is the only way to make a decision about whether to inform other agencies, the DSL should: -

- Never copy, print, share, store or save them as this is illegal – if this has already happened, contact the local police for advice and to explain the circumstances
- Discuss the decision with the Head of School or a member of the SLT
- Make sure viewing is undertaken by the DSL (or equivalent) or another member of the safeguarding team with delegated authority from the Head of School or a member of the SLT
- Make sure viewing takes place with another member of staff present in the room, ideally the Head of School or a member of the SLT. This staff member does not need to view the images
- Wherever possible, make sure the viewing takes place on the school premises, ideally in the Head of School's office or a member of the SLT's office

- Make sure, wherever possible, that they are viewed by a staff member of the same sex as the pupil in the images
- Record how and why the decision was made to view the imagery in the safeguarding or child protection records, including who was present, why the nudes or semi-nudes were viewed and any subsequent actions.

Where the incident is categorised as 'aggravated', the situation will be managed in line with the school's Whole School Safeguarding Policy and the police will be involved. Where the incident is categorised as 'experimental' the pupils involved are supported to understand the implications of sharing indecent imagery and to move forward from the incident. Where there is reason to believe that indecent imagery being circulated will cause harm to a pupil, the DSL escalates the incident to CSCS. Where indecent imagery of a pupil has been shared publicly, the DSL will work with the pupil to report imagery to sites on which it has been shared and will reassure them of the support available.

## **10. Safeguarding**

If the staff member who conducted the search has a safeguarding concern, they will raise this with the DSL, following the procedures in the school's Whole School Safeguarding Policy.

If a pupil raised a safeguarding-related concern in relation to how a search has been conducted, this will be handled by the DSL in line with the school's Whole School Safeguarding Policy and the Allegations of Abuse Against Staff Policy, where appropriate.

## **11. Parental consent**

The school is not required to inform parents before a search takes place or to seek their consent to search their child.

The Head of School will inform the individual pupil's parents where alcohol, illegal drugs or potentially harmful substances are found via a phone call, though this is not a legal obligation.

Complaints about searching will be dealt with in line with the Complaints Procedure Policy.

## **12. Enforcement**

All staff members are expected to act in accordance with this policy. Any breach of this policy will be dealt with in line with the Disciplinary Policy and Procedure.

## **13. Monitoring and review**

This policy will be reviewed on annual basis by the Head of School.

Any changes to this policy will be communicated to all members of staff, pupils and their parents.