



Screening Searching and Confiscation Policy

Approved at SLT: 6 July 2021

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Statement of intent

Moor Park High School and Sixth Form appreciates that pupils have a 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.

However, 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 authorised staff members can screen and search pupils, particularly without consent. It also outlines the legal powers to seize and then confiscate items during a search.

Staff members authorised by the headteacher with screen and search powers are:

- **SLT Members**
- **Mr Dalal**
- **Mrs Tolson**
- **Mr Gray**

1. Introduction

Confiscation is a sanction applied as part of the whole school behaviour policy. It has a range of legal implications and staff will need to follow this guidance to ensure they are acting at all times within the law. Whilst the Education Act 2006 gives the power to confiscate items as a disciplinary sanction, as with other sanctions, the law requires that it must be applied in a reasonable and proportionate way.

2. Legal framework

2.1. This policy takes regard of the following legislation:

- 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'

2.2. This policy operates in conjunction with the following school policies:

- Behaviour Policy
- Complaints Procedures Policy
- Disciplinary Policy and Procedure
- Surveillance and CCTV Policy

3. Authorisation

3.1. The headteacher has the responsibility to decide who to authorise to use these powers, but there is no requirement to provide authorisation in writing.

3.2. The headteacher can require a member of the school's staff to undertake a search. Staff members, other than the above-named staff may refuse to carry out a search.

3.3. Staff members can be authorised to search for some items but not others.

3.4. Staff members must be the same sex as the pupil being searched and there must be a witness (also a staff member) and, if possible, they should be the same sex as the pupil being searched.

3.5. Staff members can search a pupil of the opposite sex only where there is reasonable cause to suspect that there is a risk of serious harm to a person if a search is not conducted immediately.

- 3.6. Staff members can search a pupil without a witness present only where there is reasonable cause to suspect that there is a risk of serious harm to a person if a search is not conducted immediately.
- 3.7. 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.

4. Screening

- 4.1. The statutory power of Moor Park High School and Sixth Form to make rules on pupil behaviour and its duty to manage the safety of staff members, pupils and visitors enables it to impose a requirement that pupils undergo screening.
- 4.2. The screening of pupils by a walk-through or hand-held metal detector is permitted, even if they do not suspect them of having a weapon and without the consent of pupils.
- 4.3. If a pupil refuses to be screened, the school has the right to refuse to allow that pupil on the premises. This does not mean that the school has excluded that pupil and the pupil's absence will be treated as unauthorised.
- 4.4. Screening without physical contact is not subject to the same conditions as those that apply to the powers to search without consent.

5. Establishing grounds for a search

- 5.1. Moor Park High School and Sixth Form has the right to search pupils with their consent for any item. Formal written consent is not required. It is enough for the teacher to ask the pupil to turn out his / her pockets or look in the pupil's bag or locker and for the pupil to agree.
- 5.2. Members of staff can instruct a pupil to turn out his/her pockets or bag if it is suspected that the pupil has a banned item in his/ her possession. If a pupil refuses, the teacher will apply the appropriate punishment as outlined in the School Behaviour Policy.
- 5.3. A pupil's' refusal to cooperate with such a search raises the same kind of issues as where a pupil refuses to stay in a detention or refuses to stop any other unacceptable behaviour when instructed by a member of staff. The appropriate disciplinary penalty will be applied.

6. Location

- 6.1. 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.

7. Searching without consent

- 7.1. Authorised staff members can undertake a search without consent if there are reasonable grounds to suspect that a pupil is in possession of a prohibited item, as outlined in section 8 of this policy.
- 7.2. Staff members are empowered to search regardless of whether the pupil is found after the search to have a prohibited item.
- 7.3. Staff members can view CCTV footage to inform their decision as to whether to conduct a search for a prohibited item.

8. Prohibited items

- 8.1. The following items are prohibited:
 - Knives or weapons, alcohol, illegal drugs and stolen items.
 - Tobacco and paraphernalia, fireworks and pornographic images.
 - Any article 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 to property.
 - Mobile phones, pagers, iPods and music players.
 - Any item banned by the school rules which has been identified in the rules as an item which may be searched for.
 - Solvents
 - Paint thinners.
 - Laser pens
 - Electronic cigarettes

9. Mobile Phones and Electronic Devices

- These are banned in school (this includes the yard).
- The school does not accept any liability for any of these items if they are lost or stolen or damaged whilst on the school premises.
- If a child needs to ring home the school office will arrange this.

10. Banned items

- 10.1. Items banned by the school rules may only be searched under these powers if it has been identified in the school rules as an item that can be searched for.
- 10.2. Banned items include:
 - Legal highs.
 - Aerosol cans.
 - Non-prescribed hypodermic needles.

- Hair styling devices
- Chewing gum
- Fizzy/energy drinks

10.3. The school rules must be determined and publicised by the headteacher.

11. Other items for which confiscation is appropriate

- 11.1. An item which is counter to the ethos of the school: for example, material which might cause tension between one community and another.
- 11.2. An item which is illegal for a child to have: for example, racist and pornographic material
- 11.3. An item which poses a threat to others: for example, a laser pen being used to distract and possibly harm other pupils or staff.
- 11.4. In all these cases, the item should be confiscated and referred to a member of SLT.
- 11.5. The member of SLT will decide which actions is to be taken in accordance with the school's behaviour policy.

12. During the search

- 12.1. Members of staff can use such force as is reasonable given the circumstances when conducting a search for prohibited items, but cannot use force to search for items banned only under school rules.
- 12.2. 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 (i.e. a police officer) can do.
- 12.3. Outer clothing means clothing that is not worn next to the skin or immediately over a garment that is being worn as underwear, but includes hats, shoes, boots, gloves and scarves.
- 12.4. Authorised staff members can search lockers and desks for any item, provided the pupil agrees and 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.
- 12.5. If a pupil 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 prohibited items.

13. After the search

- 13.1. Staff members can confiscate, retain or dispose of a pupil's property as a disciplinary penalty, where reasonable to do so.
- 13.2. It is up for 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.
- 13.3. 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.
- 13.4. In relation to stolen items, the police will not be involved in dealing with low-value items (e.g. pencil cases); however, it may be appropriate for the school to contact the police if high-value items (e.g. laptops) or illegal items (e.g. fireworks) are involved.
- 13.5. 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.
- 13.6. 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.
- 13.7. Where a staff member conducting a search finds alcohol, he/she may retain or dispose of it as they think appropriate but must not return it to the pupil.
- 13.8. Where a staff member finds:
 - Mobiles phone/pager/iPod and other music payer/fizzy drinks they must be collected by a parent(s)/carer(s)/carer(s) by appointment with SLT. Please note it may be up to a maximum of 5 school days before an appointment can be made.
 - 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.
 - 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 discipline, including legal highs. Where staff suspect that a substance may be controlled, they should treat them as controlled drugs as above.
 - Stolen items, these must be delivered to the police as soon as reasonably practical but may be returned to the owner or disposed of if the person thinks there is good reason to do so.
 - Tobacco or cigarette papers, they may retain or dispose of them, but must not return them to the pupil.
 - Fireworks, they may be retained or disposed of, but must not be returned to the pupil.
 - Pornographic images, 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 is reasonably practicable.

Images found on a mobile phone or other electronic device can be deleted unless it is necessary to pass them to police.

- An article that has been or could be used to commit an offence or to cause personal injury or damage to property, this may be retained, disposed of, delivered to the police or returned to the owner, as appropriate.
- An item 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.
- Weapons or items which are evidence of an offence, these must be passed to the police as soon as possible.
- A prohibited electronic article the person who confiscates the item must pass to a member of SLT via the school office. The item may be examined for any data or files on the device if it is thought there is good reason for doing so. Following the examination, the person seizing the article may erase the data or files if they believe there is good reason for doing so.

14. Electronic devices

- 14.1. 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.
- 14.2. Parental consent is not required in order to search a pupil's phone if it has been seized in a 'without consent' search.
- 14.3. 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.
- 14.4. In determining what a good reason is, the member of staff will reasonably suspect 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.
- 14.5. 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.
- 14.6. If a member of staff does not find any material they suspect is evidence in relation to an offence, and decides to not 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.

15. Parental consent

- 15.1. Moor Park High School and Sixth Form is not required to inform parents before a search takes place or to seek their consent to search their child.
- 15.2. The Headteacher will inform the individual pupil's parents / guardians where alcohol, illegal drugs or potentially harmful substances are found, though this is not a legal obligation.

16. Monitoring/reporting

- 16.1. Although it is not a legal requirement to do so, for the purposes of accountability and transparency, the school will keep a record of all searches undertaken by authorised staff members.

17. Enforcement

- 17.1. Moor Park High School and Sixth Form expects authorised staff members to use their screen and search powers in accordance with the provisions of this policy.
- 17.2. Staff members that abuse these powers or screen and search pupils without consent for items other than those which are prohibited, will be subject to the appropriate disciplinary action.

18. Complaints

- 18.1. Complaints about screening or searching should be dealt with through the school's normal complaints procedure.

19. Policy circulation

- 19.1. This policy will be made available to all staff in the document envelope which contains key school policies. The policy will also be discussed during the induction process with the relevant SLT member.
- 19.2. This policy will be included in the publication scheme on the school's website and will be made available to the public.

20. Policy review

- 20.1. This policy is reviewed every **two years** by the **headteacher**.