



# Confiscating & Searching Policy

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## Bedstone College

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## **Confiscation and Searching**

This policy applies to all members of our college community, including boarders and those in our EYFS setting. Bedstone College is fully committed to ensuring that the application of this policy is non-discriminatory in line with the [UK Equality Act \(2010\)](#). Further details are available in the college's Equality and Diversity Policy document.

Consideration is given to the DfE Guidance “Searching, Screening and Confiscation: Advice for Schools” (Feb. 2014) and “Use of Reasonable Force” (July 2013).

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/279245/searching\\_screening\\_confiscation\\_advice\\_feb14.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/279245/searching_screening_confiscation_advice_feb14.pdf)

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### **The rights of staff to confiscate items:**

A teacher or other member of staff may only seize, retain or dispose of a student's property if he or she has authority to do it. The Education and Inspections Act 2006 provides that authority when the confiscation is a lawful disciplinary penalty. It is for the staff member confiscating to show the legality of the confiscation since he or she has made the decision to interfere with the property. If authority can be shown, the staff member has a defence to all proceedings against him or her and is not liable for any damage or loss arising. In this college the Head has delegated to all teaching staff the authority to confiscate items from students as a lawful disciplinary penalty. The use of confiscation as a sanction should be accompanied by a clear indication of when and where the item will be returned, and by whom. Often an item will be confiscated by the class teacher who will return the item at the end of a period determined by them, which will never be longer than one college week.

### **The secure storage of confiscated items:**

Students have a right to expect that confiscated items, especially those of monetary or emotional value, will be stored safely until they can be returned. Staff should take confiscated items of obvious value to the college bursar's office, for storage. If similar items have been confiscated from several students, such as mobile phones or personal music-players for example, the office staff should ensure that they are clear which item belongs to which student.

### **Instances when the college chooses not to return an item to the student:**

- Items of value which the student should not have brought to college, or has misused in some way, might, if the college judges this appropriate and reasonable, be stored safely at the college until a responsible family adult can come to retrieve them. For example, there is no acceptable reason why a student should bring a cigarette lighter to college. In such circumstances retention is a reasonable step both to protect property, and to enable discussion about whether the student is smoking and how this can be addressed.
- Other items which the student should not have had in their possession, particularly of an unlawful or hazardous nature, may be given by the college to an external agency for disposal or further action as necessary. This should always be

followed by a letter to the parents confirming that this has taken place and the reasons for such action.

#### **Recording the confiscation:**

Staff should be clear about what they have confiscated and the grounds for the action, so that they may justify them later if challenged. It might be appropriate to keep a written record, which may take the form of simple annotations in their markbook, for example. Reasons for confiscation may include:

- An item poses a threat to others: for example, a laser pen is being used to distract and possibly harm other students or staff.
- An item poses a threat to good order for learning: for example, a student uses a personal music-player/mobile phone in class.
- An item is against college uniform rules: for example, a student refuses to take off a baseball cap on entering a classroom.
- An item poses a health or safety threat: for example, a student wearing large ornate rings in PE may present a safety threat to other students.
- An item which is counter to the ethos of the college: for example, material which might cause tension between one community and another.
- An item which is illegal for a child to have: for example, racist or pornographic material. Protocols for how to deal with such items can be agreed with local police.

#### **Searching for inappropriate or prohibited items/material:**

Any member of school staff may search for an item if the student agrees. Written consent is not required.

A student might reasonably be asked to turn out their pockets or to hand over an item such as a personal music-player that is causing disruption, and the college might use its legal power to discipline if the student unreasonably refuses to cooperate.

The Head, or staff authorised by the Head, may search students without consent if they have reasonable grounds for suspecting that a pupil may have a prohibited item. Prohibited items include:

- (a) Knives/Weapons
- (b) Alcohol
- (c) Illegal Drugs or items associated with drug taking (including 'legal highs')
- (d) Stolen items
- (e) Tobacco/cigarette papers/e-cigarettes/vapourisers
- (f) Fireworks
- (g) Pornographic images
- (h) Any article that a member of staff reasonably suspects has been, or is likely to be, used to commit an offence
- (i) Any item that might be used to cause personal injury to, or damage the property of, any person (including the student)

A search, (of the body), without consent, will be done by an authorised person the same sex as the student and in the presence of a witness, (another member of staff), who should be the same sex, if possible. There is a limited exception to this rule. An authorized person can carry out a search of a student of the opposite sex, and without a witness present, but only where they reasonably believe that there is a risk that serious harm will be caused to a

person if they do not conduct the search immediately and where it is not reasonably practicable to summon another member of staff.

A search of personal items/possessions, without consent, will be done by an authorised person in the presence of a witness, (another member of staff) and the student.

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 retain or dispose of it. This means that schools can dispose of **alcohol** as they think appropriate but this should not include returning it 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** 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 pupil.

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

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

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.

Statutory guidance on the disposal of controlled drugs and stolen items

It is up to teachers to decide whether there is a good reason not to deliver stolen items or controlled drugs to the police. In determining what is a "good reason" for not delivering controlled drugs or stolen items to the police the member of staff must have regard to the following guidance issued by the Secretary of State :

**In determining what is a ‘good reason’ for not delivering controlled drugs or stolen items to the police, the member of staff should take into account all relevant circumstances and use their professional judgment to determine whether they can safely dispose of a seized article.**

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.

With regard to stolen items, it would not be reasonable or desirable to involve the police in dealing with low value items such as pencil cases. However, school staff may judge it appropriate to contact the police if the items are valuable (iPods/laptops) or illegal (alcohol/fireworks).

#### **Mobile Phones/Electronic Devices:**

Mobile phones or other electronic devices will be confiscated if used inappropriately: this includes use in examinations (where the paper may be declared void, and further regulations set by the examination boards themselves may apply), devices being switched on in lessons or assemblies, the use of the camera function on a device, and the use of a device during a conversation with a member of staff. The word ‘use’ in this context includes receiving calls, texts and data, as well as using functions on the device such as music player software. It is unacceptable for students to use phones or other technological equipment to humiliate or bully other members of the college community (e.g. sending abusive text messages, cyberbullying, using camera-phones, and the recording and transmitting of images of abuse).

Staff should note that, while confiscation of a mobile phone is legitimate, searching through a phone or accessing text messages without the student's permission is not unless the staff member believes that there is ‘good reason’ to do so. “Good reason” is defined as the staff member reasonably suspecting 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.

If there is a suspicion that the device has inappropriate images of a child contained in its storage, then the member of staff should confiscate the device and report the matter immediately to the DSL. Under no circumstances should they search the device, or view the images.

It is always better to gain consent when investigating an electronic device and have the student with you. For example it may be reasonable for a member of staff to ask a student to reveal a message for the purpose of establishing whether cyberbullying has occurred. However, if the student refuses then the member of staff is able to search the device without consent as there are reasonable grounds to suspect that the data on the device has broken school rules.

Where mobile phones are confiscated, staff will give the phone to the college office (or keep it securely in a boarding house) for safe keeping and inform the student when he/she may collect it.

The college has considered the safety of students, the majority of whom travel by car or college transport: where a parent believes that safety is a concern, he/she may come to college in order to collect the phone from the college office as soon as is convenient – the stated period of confiscation will not apply.