



Screening and Searching Pupils for Prohibited Items NEU guidance for members, reps and local officers

This document gives a brief outline of NEU policy and advice on screening and searching pupils for prohibited items in schools in England and Wales, followed by a summary of the legal position.

NEU policy on screening and searching pupils

The NEU does not support the routine screening and searching of pupils. Such actions are likely over time to undermine the bonds of trust and respect which exist between pupils and school staff, and undermine the efforts of school leaders to forge an open, supportive and inclusive school community. Where searching is unavoidable, eg where the consequences of failing to act might place a person or persons at risk of serious harm, NEU health and safety representatives are urged to ensure that members are aware of a number of issues.

Firstly, searching involves physical contact, which is a highly sensitive issue, potentially exposing staff to the risk of serious injury – particularly if weapons are used against them or pupils lash out in other ways. NEU advice, therefore, is that teachers should think very carefully before agreeing to exercise this power, and certainly resist any pressure to do so.

In relation to searching pupils without consent, while the law allows for this power to be delegated from the head teacher to another teacher, the NEU advises members that they should not agree to undertake this role, due to the potential risks involved. In no circumstances can teachers be required to search pupils. The NEU will fully support any members that are asked or pressured to undertake such searches but refuse to do so. Where a teacher has agreed to search a pupil but is subsequently unsure whether or not it is safe to search them, eg the pupil may violently resist, the NEU advises that the teacher should err on the side of caution and call the police.

Teachers should use their professional judgement and avoid using any force in relation to a search. If the teacher has doubts, or if it becomes clear that force will be needed, the teacher should end the attempt to search.

No member of staff should conduct a search without first having received suitable and sufficient training.

Insurance issues should be carefully considered. School employers should make sure that they are covered, not just for claims by staff who are injured as a result of undertaking searches, but also for where claims may be made against a member of staff who injures a pupil while conducting a search.

Teachers should always be mindful of the pupil's human rights, personal dignity, health and data protection rights when searching them. School staff, parents and pupils must be assured that an employer's policies around the use of search powers are both sensible and reasonable.



The power to search without consent should be seen as a 'last resort' and only used if other options have been exhausted. This means that staff should first question a pupil, then, if appropriate, request that the pupil surrenders the item. If this strategy is unsuccessful, the pupil should first be given the opportunity to consent to a search before finally undergoing a search without consent, if it is considered safe to do so.

Declining to search a pupil does not mean that a teacher is refusing to follow a reasonable instruction from the head teacher. Agreeing to search one particular pupil does not mean that a teacher has to agree to search any others. Teachers who have accepted the power to search pupils may decide not to exercise that power on a case by case basis. This decision will be based on the teacher's own professional judgement of the circumstances.

Summary of the law relating to screening and searching

Screening (England and Wales)

What the law allows:

- Schools can require pupils to undergo screening by a walk-through or hand-held metal detector (arch or wand) even if they do not suspect them of having a weapon, and without the consent of the pupils.
- Schools' statutory power to make rules on pupil behaviour¹ and their duty as an employer to manage the safety of staff, pupils and visitors² enables them to impose a requirement that pupils undergo screening.
- Any member of staff can screen pupils.

If a pupil refuses to be screened, the school may refuse to have the pupil on the premises. Health and safety legislation requires a school to be managed in a way which does not expose pupils or staff to risks to their health and safety, and this would include making reasonable rules as a condition of admittance.

If a pupil fails to comply, and the school does not let the pupil in, the school has not excluded the pupil and the pupil's absence should be treated as unauthorised. The pupil must comply with the rules and attend.

This type of screening, without physical contact, is not subject to the same conditions as the powers to search without consent.

Searching with consent (England and Wales)

School staff³ can search pupils with their consent⁴ for any item.

For example, if a member of staff suspects a pupil has a banned item in their possession, they can instruct the pupil to 'turn out' his or her pockets or bag. If the pupil refuses, the teacher can apply an appropriate punishment as set out in the school's behaviour policy. Alternatively, teachers who agree to do so, and where authorised by a

¹ Education and Inspections Act 2006

² Health and Safety at Work etc Act 1974

³ A teacher or someone who has lawful control or charge of the child

⁴ The ability to give consent may be influenced by the child's age or other factors



head teacher, can consider conducting a search without consent, provided the following legal requirements are met.

Searching without consent (England)

What the law says

Head teachers and staff authorised by them have a statutory power to search pupils or their possessions, without consent, where they have reasonable grounds for suspecting that the pupil may have a prohibited item.

Prohibited items 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 of, any person (including the pupil)
- any item banned by the school rules which has been identified in the rules as an item which may be searched for (for instance, laser pens).

Authorising members of staff

Head teachers should decide who to authorise to use these powers. There is no requirement to provide authorisation in writing. Staff can refuse to undertake a search. The law states that head teachers may not require anyone other than a member of the school security staff to undertake a search.

Other conditions

The provision applies when the head teacher, teacher or other authorised person is on the school premises or where he or she has lawful control of the pupil, albeit outside the school premises, such as on an out-of-school activity.

The Education and Inspections Act 2006 requires the member of staff searching the pupil to be of the same sex as the pupil, and that they may carry out the search only in the presence of another member of staff who is also of the same sex as the pupil. There is, however, a limited exception to this rule. A search can be carried out by a teacher of the opposite sex and without a witness present, but only where the teacher reasonably believes 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. The member of staff searching the pupil must not require the pupil to remove any clothing except outer clothing, such as a coat or hat.

If, in the course of a search, the person carrying out the search finds an offensive weapon or article, he or she may seize and retain the item, which must be handed over to the police as soon as possible.

Teachers can only undertake a search without consent if they have reasonable grounds for suspecting that a pupil may have in his or her possession a prohibited item. The teacher must decide in each particular case what constitutes reasonable grounds for suspicion. For example, they may have heard other pupils talking about the item or they might notice a pupil behaving in a way that causes them to be suspicious.



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 for items banned by the school rules

An item banned by the school rules may only be searched for under these powers if it has been identified in the school rules as an item that can be searched for. There may, however, be some situations where such searches might be impractical, such as searches for mobile phones in examination halls. A pragmatic, case-by-case approach is recommended in such circumstances.

Mobile phones

The NEU believes that the practice of searching the contents of pupils' phones is unlikely to be used other than rarely due to its impracticability and the damage it could do to teacher/pupil relationships.

The NEU believes that schools will be best served by including clear statements within the school's behaviour policy about the situations in which this may be done, after consulting fully within the school community. Any teachers or other staff who are to be asked to undertake such searches, which the NEU believes will only be in exceptional circumstances, should be given full guidance and any necessary training. It is of utmost importance that individual school staff operate fully within the school's procedures.

When dealing with instances of 'sexting' in schools, ie the sharing by children of indecent images, it may be the case that mobile devices are confiscated from pupils involved in the incident. In such circumstances, the NEU recommends that the device is secured and switched off. The device should not be searched by the school if it is likely to cause further embarrassment or distress to the pupil involved in the image. Further information is available in the NEU self-help briefing Sexting Incidents in Schools, available on the website: neu.org.uk

Laser pens

The NEU is aware of instances of pupils bringing laser pens/pointers into schools, and lasers being shone into the eyes of other pupils and staff. When lasers are shone into eyes they can cause eye damage or even temporary blindness. A UK survey of ophthalmologists reported 159 incidents of eye injuries from laser pens since 2013, mainly affecting young children.

The Government is concerned that high strength laser pens, which can cause more damage to the eyes, and are not suitable for general use by the public, are increasingly available to purchase, as they can be bought online easily.

The law allows schools to conduct searches without consent for laser pens, as they are items that could cause personal injury. Furthermore, the NEU recommends that laser pens are listed as a prohibited item in the school's rules. This would also allow schools to conduct searches without consent for such items. The law allows schools to retain or destroy items which are confiscated during the search, and the NEU recommends that if



laser pens are found during a search, they are destroyed due to the risks they pose. It should be clearly detailed in the school's policies that laser pens are prohibited and that, if they are found, they will be destroyed.

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

The powers only apply in England.

Extent of the search – clothes, possessions, desks and lockers

The person conducting the search may not require the pupil 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 – it includes hats, shoes, boots, gloves and scarves. 'Possessions' means any goods over which the pupil has or appears to have control – this includes desks, lockers and bags.

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 could have been used or could be used to commit an offence or cause harm. The NEU would argue that the use of force should be avoided given the risks to all concerned.

In any case, such force cannot be used to search for items banned under the school rules. See Department for Education (DfE) guidance on the use of [reasonable force](#) (see further resources below).

Confiscation

School staff can seize any prohibited item found as a result of a search. They can also seize any item, however found, which they consider harmful or detrimental to school discipline. Where any item is thought to be a weapon it must be passed to the police.

Parents/guardians

Schools are not required to inform parents before a search takes place nor to seek their consent to search their child. Furthermore there is no legal requirement to make or keep a record of a search. Schools should inform the individual pupil's parents or guardians 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.



Further information on all these points can be found in the DfE [guidance document](#) Searching, screening and confiscation – advice for head teachers, school staff and governing bodies (see further resources below).

Searching without consent (Wales)

In Wales, section 550AA of the Education Act 1996, inserted under Section 45 of the Violent Crime Reduction Act 2006, introduced a power for head teachers and other members of school staff to screen any pupil for a knife or other weapon, and search, without consent, a pupil whom they reasonably suspect is carrying a knife or other weapon. The Welsh Assembly Government (WAG) commenced this power in October 2010. Note that the power is limited to knives and other offensive weapons and does not include other 'prohibited items'.

The statutory power to search applies where there are reasonable grounds for suspecting that a pupil has with him or in his possessions any of the following:

- a knife – to be precise, any article which has a blade or is sharply pointed. The definition does not include a folding pocket knife other than one whose cutting edge exceeds three inches or one which is not readily foldable at all times (such as a locking knife)
- a weapon made for injury, such as a gun
- an offensive weapon – to be precise, any article made or adapted to injure a person, or any article which is intended by the person carrying the article for such use by him or another person
- an article adapted for causing injury such as a bottle broken deliberately for the purpose
- an article not made or adapted for causing injury but which the person who has it intends to be used for the purpose of causing injury, eg a baseball bat.

The power includes a power to search where there are reasonable grounds to suspect that a pupil is in innocent possession of a weapon. The power does not, however, allow without-suspicion (whether random or blanket) searches.

Other conditions

During a weapons search of a pupil without consent, the searcher and the required second person present must be of the same sex as the pupil searched. A pupil's possessions can be searched without consent (and the search witnessed) by staff of the opposite sex to the pupil, but the pupil must be present.

Clothing/possessions

As in England, the power to search on suspicion and without consent enables a personal search, involving removal of outer clothing (eg a coat, jacket or pullover) and searching of pockets; but not an intimate search going further than that, which only a person with more extensive powers (eg a police officer) can do.

A pupil's possessions include any goods over which the pupil has or appears to have control, eg a bicycle, panniers, motorbike, car (including family car). A school can already search a pupil's locker – this power remains intact.



Authorisation

Guidance from WAG states that a head teacher needs no authorisation to conduct a weapons search without consent. Other school staff must be authorised by their head teacher before they can do so. Authorisation may be on a long-term or permanent basis, or for a stated shorter period, and should be in writing.

Training

WAG guidance states that the head teacher should undertake training if intending to search pupils for a weapon on suspicion and without consent, and should arrange training (including refresher training) for any school staff whom the head teacher will authorise to search. No-one should do a search before being trained.

Location of a search

School staff can search a pupil outside the school premises where the pupil is under their lawful charge, eg during an off-site educational visit. On school visits, staff should normally rely on calling the police rather than seeking to have a member of staff authorised to search on every visit where suspicion might arise.

Use of reasonable force

The power of school staff to use reasonable force to prevent a pupil committing an offence, injuring themselves or others, damaging property, or prejudicing the maintenance of good order and discipline applies to a search without consent. The NEU would argue, however, that the use of force in searching for a knife or other offensive weapon should be avoided given the risks to all concerned. The WAG advises that, when a pupil suspected of carrying a weapon is likely to physically resist, school staff should call the police rather than use force to continue the search.

Consequences

The searcher can seize any knife or offensive weapon or anything that could be used as an offensive weapon; any knife or other weapon found 'accidentally'; and anything which provides reasonable grounds that an offence has been committed. When school staff find and seize a knife which they suspect is illegal, they should promptly inform the police.

If a suspected illegal weapon is seized it must be delivered to the police as soon as is reasonably practicable. This would usually happen at the school, if the police come in response to the school's call. It is lawful for staff to keep a seized weapon, for example, in a locked cupboard, until delivering it to the police. Any other item which the searcher suspects is evidence in relation to an offence must, as with weapons, be delivered to the police.

Parents/guardians

WAG guidance states that schools are not required to inform a parent before a search or seek parental consent, but it is advisable to publicise the school's policy in advance and to inform parents when their child has been searched, in most cases. Complaints about screening or searching should be dealt with through the normal school complaints procedure.



Guidance (Wales)

The Welsh Assembly Government has issued [comprehensive guidance](#) on both the power to search and the use of reasonable force, both of which commenced in October 2010. Go to: learning.gov.wales/docs/learningwales/publications/121128safeen.pdf

Further resources

DfE

[Screening, searching and confiscation – advice for head teachers, staff and governing bodies](#)

[Use of Reasonable Force – advice for head teachers, staff and governing bodies,](#)

[Behaviour and Discipline in Schools – guidance for governing bodies](#)

[Behaviour and Discipline in Schools – advice for head teachers and school staff](#)

[Information Commissioner advice on the Data Protection Act](#)