

Protocol for Searching a Student at Baines

Approved by Governors January 2023

What is a prohibited item?

Prohibited items include:

- knives or weapons;
- alcohol;
- illegal drugs;
- stolen items;
- e-cigarettes and vape liquid;
- tobacco and cigarette papers;
- fireworks;
- pornographic images;
- any article that a member of staff reasonably suspects has been, or is likely to be, used to commit an offence or injure a person or damage property; and
- any item which a school policy specifies as banned and able to be searched for.

Screening students at Baines School

Baines School can force students to be screened by a walk through or hand-held metal detector whether or not the student is suspected of having a weapon and without the student's consent.

Any member of staff can screen students; this type of screening without physical contact differs from the power to search.

If a student refuses to be screened, Baines school may refuse to allow the student on to school premises. This will be treated as an unauthorised absence and not an exclusion.

Searching students with consent

School staff, acting on behalf of the Headteacher, can search students with their consent for any item. The consent does not have to be in writing.

If the member of staff suspects that a student has a prohibited item and the student refuses to agree to be searched, then the school will contact the parent / guardian

and if need be the police. The student will also be sanctioned for refusing to be searched.

Staff acting on behalf of the Headteacher include:

All members of the senior leadership team

Pastoral officers

The second member of staff can be any other member of staff that the first member of staff have chosen to witness according to the advice above.

Searching students without consent

At Baines School, the Headteacher or a member of staff authorised by the Headteacher can carry out the search for prohibited items where there are reasonable grounds for suspecting that a student is in possession of a prohibited item.

- The member of staff must be the same sex as the student and another member of staff should act as a witness.
- However, a search can be carried out by a member of staff who is of the opposite sex to the student and without a witness where the staff member reasonably believes that there is a risk of serious harm to a person if such a search is not carried out immediately and it is not reasonably practicable to call another member of staff. In such cases, staff should take into account the increased expectation of privacy for older students.

What are reasonable grounds for suspicion?

At Baines School, members of staff must decide in each case what constitutes reasonable grounds for suspicion. For example, they may have heard other students talking about the item or notice a student behaving in a suspicious manner. Staff at Baines School will also use CCTV footage to help reach their decision where appropriate. These powers apply regardless of whether any prohibited item is found on the student.

Where can searches be carried out?

Searches without consent can only be carried out on the school premises or, if elsewhere, where the member of staff has lawful control of the student e.g. on school trips or in training settings.

What requirements are there during the search?

The extent of the search

- Students can only be required to remove '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. Outer clothing includes hats, shoes, boots, gloves and scarves.
- The power to search without consent permits a personal search involving the removal of outer clothing and searching of pockets. **Staff cannot carry out an intimate search; this can only be carried out by the police.**

Searching a student's possessions

- A student's possessions can only be searched with the student and another member of staff present unless there is a risk of serious harm to a person if the search is not carried out immediately and it is not reasonably practicable to summon another member of staff. 'Possessions' mean any goods over which the student has or appears to have control including desks, lockers and bags.

Searching lockers

- Baines School will search lockers with the student's consent. It is a precondition of having a locker that that students will agree to a search whether or not the student is present. If a student refuses to allow the search then staff can still carry out the search for prohibited items.

Use of physical intervention

- There are some staff at Baines School who are trained in Team Teach physical intervention techniques. Staff trained in this 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 school rules unless they are also on the list of prohibited items. In an extreme situation where there is concern for safety, then it may be required for staff not trained in Team Teach techniques to use physical intervention.

When can Baines School confiscate items?

- Section 91 Education and Inspections Act 2006 gives schools power to discipline students which enables a member of staff to confiscate, keep or

dispose of student's property as a disciplinary measure where it is reasonable to do so. Staff have a defence to any complaint provided they act within their legal powers. The law protects members of staff from liability for any loss of or damage to any confiscated item, provided that they have acted lawfully.

Items confiscated during a 'with consent' search

Staff can use their discretion to confiscate, keep or destroy any item found provided it is reasonable in the circumstances. If any item is thought to be a weapon it must be passed to the police.

Items confiscated during a 'without consent' search

A member of staff can seize anything that they have reasonable grounds for suspecting is a prohibited item or is evidence in relation to an offence.

Alcohol

Any alcohol that is found may be kept or disposed of as the school considers appropriate but must not be returned to the student. Any controlled drugs found should be given to the police as soon as possible but can be disposed of if there is good reason to do so. Any other substances which, whilst not controlled drugs, are believed to be harmful or detrimental to good order or discipline, can be confiscated.

Stolen goods

Stolen items must be given to the police as soon as reasonably practicable although they can be returned to the owner (or kept or disposed of if returning them to the owner is not practicable) if there is a good reason to do so.

Tobacco, cigarette papers or fireworks

Tobacco, cigarette papers or fireworks may be kept or disposed of but should not be returned to the student.

E-Cigarettes and Vapes

E-cigarettes and vapes may be kept or disposed of but should not be returned to the student.

Pornographic materials

Any pornographic image may be destroyed unless its possession constitutes a specific offence in which case it must be given to the police as soon as reasonably

practicable (images found on a mobile phone/tablet must not be viewed by staff if there is any chance the image could be of a child under the age of 18).

Weapons

Any weapons or items which are evidence of an offence must be passed to the police as soon as possible.

If a weapon has been confiscated and it is not evidence, the item can be destroyed or collected by parents/carers (if the school feels this is appropriate).

Other items

Any item that has been or could be used to commit an offence, harm someone or damage property may be given to the police.

Any item which is banned under school rules can be dealt with as the member of staff in their professional judgment thinks fit.

What powers does a school have to examine electronic devices?

If an electronic device is found, the member of staff may examine any data or files on the device if they think there is good reason to do so.

Following an examination, if staff have decided to return or keep the device, they may erase any data or files if they consider there is a good reason to do so. When determining a 'good reason' to examine or erase the data or files, staff must reasonably suspect that the data or file has been, or could be, used to cause harm, to disrupt teaching or break school rules.

Whenever inappropriate material is found, it is for the member of staff to decide if the material should be deleted, kept as evidence of an offence/ breach of school rules or passed to the police. Staff should take into account any guidance provided by the school policies, for example the Child Protection policy, **staff should never look at any inappropriate images.**

Is there a duty to inform parents / guardians about a search?

Although there is no obligation for a school to inform or seek the consent of parents/guardians before a search, at Baines School we will endeavour to contact parents/guardians when a search has been carried out. This is especially the case when alcohol, illegal or harmful substances are found, although there is no legal requirement to do so.

Although schools do not have to make or keep a record of a search, at Baines School we will always record if any prohibited items are found.

Any complaints about screening or searching should be dealt with through the normal complaints procedure at Baines School.

This policy is based on extracts from Child Law Advice.