



# TIMU ACADEMY TRUST

## **Policy Document for: Confiscation of Inappropriate Items Policy**

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Based on

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/674416/Searching\\_screening\\_and\\_confiscation.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/674416/Searching_screening_and_confiscation.pdf)

### **Introduction**

Children and young people learn best in an environment which values their positive behaviour and is responsive to their needs and wishes. First and foremost, Timu Academy Trust recognises that all pupils have a right to learn and all adults engaged by the school to promote learning, have a right to teach.

Consequently, teachers are expected to deliver relevant and interesting lessons that engage pupils and promote their learning and pupils are expected to arrive ready to learn, with the equipment necessary to enable them to participate fully in the lesson.

Pupils should not take anything to a lesson which might interfere with their learning or the learning of others. They should not bring any items to school which are not directly connected with their lessons and inappropriate items will be confiscated.

### **Objectives and targets**

The purpose of this policy is to explain which items may be confiscated and advise on how confiscation of items will be dealt with.

Items which might be considered for confiscation include those items listed in the pupil behaviour policy and those mentioned below, among others:

- Any item posing as a distraction or threat to good order for learning in class: e.g. mobile phones, tablets, smart watches and other electronic devices.
- Any item posing a threat to others: e.g. a laser pen being used to distract and possibly harm other pupils or staff.
- Any item which is against school uniform rules: e.g. a pupil refusing to take off a baseball cap on entering a classroom.
- Any item posing a health or safety threat: e.g. a pupil wearing jewellery in PE which may present a safety threat to him/herself or to other pupils.
- Any item which is counter to the ethos of the school: e.g. material which might cause tension between one community and another.
- Any item which is illegal for a pupil to have: e.g. racist or pornographic material.

- Prohibited items

School staff can search a pupil for any item banned under the school rules, if the pupil agrees, and apply a punishment proportionate to the circumstances, the age of the pupil and any SEN or disability they may have, and any religious requirement affecting them. The CEO and staff authorised by the CEO have a statutory power to search pupils or their possessions without consent where they suspect the pupil has prohibited items. The items that can be searched for, with a view to confiscation, under this power are:

### Prohibited items

- Knives or weapons.
- Alcohol.
- Illegal drugs.
- Stolen items.
- Tobacco and cigarette papers.
- Fireworks.
- Pornographic images.
- Any article that could be used to commit an offence, cause personal injury or damage to property.
- Anything banned by the school rules that have been identified as an item that will be confiscated.

School staff can confiscate any banned or prohibited item found as a result of a search or which they consider harmful or detrimental to school discipline. When searching in these circumstances, staff are protected from liability for damage to, or loss of, any confiscated items.

Although not a legal requirement, a record of all searches will be logged on CPOMS, as will a record of any incident involving the police.

### Searching pupils with their consent

School staff can search a pupil for any item if the pupil agrees – the ability to give consent may be influenced by the child’s age and stage of development.

Items that are banned by the school rules are communicated to parents and pupils alike (see **Positive Behaviour Principles Handbook** for the behaviour policy). School staff have the right to search pupils with their consent for any such item, including the search of pupil’s electronic devices.

Schools are not required to have formal written consent from the pupil for this sort of search – it is enough for the teacher to ask the pupil to turn out his or her pockets or if the teacher can look in the pupil’s bag or locker and for the pupil to agree.

If a member of staff suspects a pupil has a banned item in his/her possession, they can instruct the pupil to turn out his or her pockets or bag and if the pupil refuses, the teacher can apply an appropriate punishment as set out in the school’s behaviour policy.

A pupil refusing to co-operate with such a search raises the same kind of issues as where a pupil refuses to stop any other unacceptable behaviour when instructed by a member of staff – in such circumstances, schools can apply an appropriate sanction as list in the behaviour policy.

### Searching pupils without their consent

What can be searched for?

- Knives or weapons, alcohol, illegal drugs and stolen items; and

- Tobacco and cigarette papers, fireworks and pornographic images; and
- 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, or damage to property; and
- Any item banned by the school rules which has been identified in the rules as an item which may be searched for.

Pupils can be searched without giving their permission for knives, weapons, illegal drugs and stolen items. An authorised member of staff of the same gender as the pupil will carry out the search and there must be another staff member present, preferably of the same sex as the pupil, as a witness. There is a limited exception which is where a search can be carried out by member of staff who is not the same gender where staff reasonably believe there is a risk of serious harm if the search is not carried out immediately and it is not reasonably practicable to summon another member of staff.

A search can be carried out without consent where there are reasonable grounds for suspecting a pupil is in possession of a prohibited item.

The CEO can grant authority to use these powers. There is no authority to have this in writing and staff can refuse to undertake a search.

### Establishing grounds for a search

- 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 suspect that the pupil is concealing a prohibited item.
- In the exceptional circumstances when it is necessary to conduct a search of a pupil of the opposite sex or in the absence of a witness, the member of staff conducting the search should bear in mind that a pupil's expectation of privacy increases, as they get older.
- 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.
- School staff may wish to consider utilising CCTV footage in order to make a decision as to whether to conduct a search for an item.

Searches for items banned by the school rules can also be carried out. These are listed in the **behaviour** policy (part of the Positive Behaviour Principles handbook) and includes:

- Mobile phone bought into school by any child not in year 6 (unless it has been expressly agreed with the parents and the Head of School)
- Wearable technology (smart watches) which can take photos, send/receive messages and emails, and/or connect to the internet for safeguarding reasons.
- Tablets and games consoles

A search without consent can only be carried out on the school premises or where a member of staff continues to have lawful charge of the pupil such as on a school trip or residential visit.

### During the search

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

What the law says:

- 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 but 'outer clothing' 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.
- Also note: the power to search without consent enables a personal search, involving removal of outer clothing and searching of pockets; but not an intimate search going further than that, which only a person with more extensive powers (e.g. a police officer) can do.
- Schools are allowed to search lockers and desks for any item if the pupil agrees
- It is possible to conduct a search without consent but only for the prohibited items

Reasonable force may be used if necessary to search for items **prohibited by law**, but only the CEO and staff authorised by the CEO may use such force. This practice will not be used to search pupils for items which are banned only by the school rules.

### After the search

- The law allows a member of staff to confiscate, retain or destroy any item found as a behaviour sanction where reasonable to do so.
- Weapons and controlled drugs will be handed to the police as soon as possible
- 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 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 and hand them to the Police
- Where a stolen item is found, this may be returned to the Police, or to the owner (depending on the circumstances and the item found). Staff may judge it appropriate to contact the Police if a valuable item (such as iPad) or illegal (fireworks or alcohol)
- 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 they have reasonable grounds to suspect that 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
- Where an article that has been (or is likely to 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 an item banned under school rules is found, it will be confiscated during the day and kept safely so it can be handed to the child's parents at the end of the day.

For more statutory guidance on the disposal of controlled drugs and stolen items see page 12 of the DfE guidance at the beginning of this policy.

#### *Dealing with electronic devices*

- Where the person conducting the search finds an electronic device that has been banned under school rules, or where they reasonably suspect it has been or is likely to be used to commit an offence or cause personal injury, they may examine any data or files where there is a good reason to do so. The member of staff must seek authority to do this from the CEO.
- A 'good reason' to examine the contents of a device is where it is reasonably suspected that the data or files on the device has been, or could be used to cause harm, disrupt teaching or break school rules
- If an electronic device has been seized as it is reasonably suspected to contain evidence relating to an offence, it will be handed to the Police as soon as possible
- If a staff member does not find any material that they suspect is evidence in relation to an offence, and decides not to give the device to the police, they can decide whether it is appropriate to delete any files or data from the device or to retain the device as evidence of a breach of school behaviour rules

See also the **safeguarding and child protection** policy and the **safely using electronic devices and social media** guides for staff and pupils & parents.

### **Informing parents**

Timu Academy Trust is not required to inform parents before a search takes place nor to seek their consent to search their child. Neither is there any legal requirement for the trust to inform a pupil's parents when alcohol, illegal drugs or potentially harmful substances are found in the course of a search, however it will usually be good practice to do so.

Complaints about searching should be made through the usual complaints procedure, set out in the **complaints** policy.

### **School procedures for safeguarding confiscated items**

As soon as practicable after confiscation, any item belonging to a pupil will be secured in the main school office.

All reasonable steps will be taken to ensure that storage arrangements are secure. If similar items have been confiscated from several pupils, e.g. mobile phones or personal music players, care will be taken to ensure staff members are clear which item belongs to which pupil.

For some items, the trust will always seek specialist advice, eg suspected illegal drugs and items which might be used as weapons. We are committed to working in partnership with police, youth offending teams and other specialist agencies to cover such issues. We will not hesitate to access specialist support and advice if an incident occurs.

Covid-19 update: during the pandemic, as part of our mitigating factors, any item confiscated will be stored in a secure cupboard/drawer in the classroom, unless it is an item which is prohibited where it will be taken to the main office and secured

### **Length of confiscation**

In most cases, confiscation is a sufficient sanction and return of the item at the end of the school day is adequate time to reinforce the school rule.

However, there are instances when school will choose not to return an item to a pupil:

- Any item of no value such as an inappropriate message scrolled on a piece of paper will be destroyed.
- Any item of an unlawful or hazardous nature (e.g. illegal drugs, valuable stolen items) will be handed to the police.
- Any item of value which a pupil should not have brought to school, or has misused in some way, may be retained for collection by a responsible family adult at a time indicated by the school. Should the family choose not to collect the item, it will be disposed of, but not offered back to the pupil.
- Images found on a mobile phone or other electronic device can reasonably be deleted unless it is necessary to pass them to the police (e.g. those of a pornographic or extreme nature).

Note: Staff have a defence to any complaint or other action brought against them. The law protects members of staff from liability in any proceedings brought against them for any loss of, or damage to, any item they have confiscated, provided they acted lawfully.

### **Monitoring and evaluation**

This policy will be monitored regularly to ensure that it reflects legislation at all times and will be evaluated in the light of any parental concerns.