



Confiscation & Search Policy

1. Policy Statement

Sir Thomas Fremantle School is committed to safeguarding and promoting the welfare of all of the members of its community. Accordingly there may be occasions when it becomes necessary to confiscate items from or search the person, the belongings or the locker of a student.

2. Aims of the Policy

These instructions set out the circumstances in which such confiscations and searches can be carried out and the means by which it should be done, in accordance with the Education and Inspections Act 2006 and DFE Guidance for Schools on Screening, Searching and Confiscation (31 August 2011).

3. Confiscation of Items NOT Permitted in School

The school have established certain guidance with regard to items not permitted in school. Where such items are brought in, our policy is to confiscate them.

The following gives some guidance as to which items which are not permitted in school:

Electronic games, MP3, MP4 players, laser pens (*see also HHED policy*)

Excessive jewellery (*see policy on uniform & equipment*)

This will include earrings, rings and studs.

*Cigarettes, tobacco, cigarette papers, cigarette lighters, matches etc. (*see smoke-free policy*)

*Alcohol, illegal drugs and substances (*see drugs & alcohol policy*)

*BB guns, penknives, modelling knives, fireworks, catapults etc.

*Stolen items

*Pornographic images (paper copies or electronic held on phones/other devices)

*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.

*- *Denotes items which will not be returned to students*

All of the above items are items will be included as items that may be searched for, with or without consent.

4. Confiscation of Inappropriate Items: What the law now provides

The EIA 2006 provides two things. First, the overall power to enforce disciplinary penalties described in section 3.3 of this guidance, would cover the use of confiscation as a disciplinary penalty (sanction). That includes seizure and also, as appropriate, the retention and disposal of certain items. As with other sanctions, the sanction of confiscation must be applied in a reasonable and proportionate way. But it would be entirely proper for a school to include confiscation as one of the disciplinary measures that might be applied as part of the school's Climate for Learning Policy.

A consequence of this is that 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.

For the confiscation to be lawful it must be proportionate, necessary in a democratic society and in pursuance of a legitimate aim. Generally the aim pursued in confiscating property is maintaining an environment conducive to learning, one which safeguards the rights of other students to be educated.

A separate legal provision in the Violent Crime Reduction Act 2006, inserted in the Education Act 1996, makes it lawful for certain school staff to search suspected students for knives or other weapons without consent. It also deals with the seizure of items found during the course of a search. Associated guidance sets out that schools can also screen students without suspicion using electronic means such as wands or arches.

Where the person conducting a search finds an electronic device they may examine the data or files on the device if they think there is good reason to do so. They may erase data or files if they feel there is good reason to do so.

The formal guidance states:

In determining a 'good reason' to examine or erase the data or files the staff member must reasonably suspect that the data or file on the device in question has been, or could be, used to cause harm, to disrupt teaching or break the school rules.

The school policy will be to confiscate and retain electronic devices where we believe that they have been used to assist cyber-bullying of students or staff. Where a student has been involved in cyber-bullying or inappropriate use of such devices, the school reserve the right to confiscate this on a daily basis and retain it for the course of the school day.

5. Confiscation - Procedures

How Confiscation Works

- Item is confiscated by staff and taken to Reception at next opportunity.
- A member of support staff completes a confiscated property form.

- The staff member ensures that the student name, form and confiscating teacher details are completed.
- The confiscated item is checked for damage.
- The item is then bagged and/or kept into the Student Services safe.
- The 'length of confiscation' section is completed. This will normally be 'end of day' or 'until collected by parent'. In the case of a mobile phone confiscated for use/ringing in class, the item may be marked 'collect by parent' at the teacher's discretion. If in doubt, leave as 'end of day'. Where an item is to be returned at the end of the day, parents will not be informed.
- The details are added to the Student Services Confiscation Record (Summary).
- When collected, the relevant section on the Confiscated Property Form is completed and filed.
- The 'Date Collected' section is then completed on the Summary sheet.
- Where an item needs to be collected by a parent, a formal letter is generated by the support team.

6. Grounds for a Search

Teachers are permitted to undertake a search where they have reasonable grounds for suspecting that a student may have a prohibited item in his or her possession. This may be the result of observing behaviour, monitoring by cctv, or comments made by other staff, students or parents.

The people in the school who can carry out any such search are any member of the teaching staff. This policy would apply on authorised school trips where school rules are in force. In such cases the trip leader and other supervising staff are permitted to carry out a search.

In all circumstances the consent of the student to any search should be requested, although consent is not needed to search for certain items. (See below). A second adult witness should always be present. The school is not required to seek parental consent before carrying out a search. No member of school staff will be required to carry out a search.

For all cases where a search is carried out, this will be documented and a copy held on file. Where prohibited items are found during a search, parents/carers will be informed.

Essentially there are two types of search: those with consent and those without consent. These searches are outlined below:

7. Searching with Consent

Any member of school staff can search students with their consent for any item.

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

If the student refuses to comply, this is not necessarily an admission of guilt; however the matter should be referred to a member of the Senior Leadership Team if appropriate.

8. Searching without consent

The following items can be searched for without consent:

Cigarettes, tobacco, cigarette papers, cigarette lighters, matches etc .
Alcohol, illegal drugs and substances
BB guns, penknives, modelling knives, fireworks, catapults etc
Pornographic images (paper copies or electronic held on phones/other devices)

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;

and

Any item banned by the school rules which has been identified in the rules as an item which may be searched for.

A 'without consent' search may only be undertaken by a member of the Senior Leadership Team.

The search should always be carried out in the presence of another sex adult witness. The only exception to this will be where the member of staff reasonably believes that there is a risk of serious harm where the search is not conducted immediately. If at all possible, both staff should be the same sex as the student.

9. Searches of a Student's Personal Property

There may be circumstances in which staff wish to search a student's personal property, such as a bag, mobile phone or locked box.

Under common law powers, if a student consents any item may be searched for.

If a student does not consent to a search, it is only possible to search for the prohibited items listed earlier.

Any such search must be witnessed by a second adult and, ideally, the student. Proper records should be kept.

Parents or carers will only be informed of the search if prohibited items have been discovered.

10. Searches of School Property

Those authorised to carry out searches may search school property, such as a student's if they believe prohibited items may be stored there. Prior consent can be sought, but individuals should be made aware that the school may still proceed with a search even if consent is refused.

Parents or carers will only normally be informed of the search if prohibited items have been discovered.

CONFISCATION LETTER

Dear

I regret that (INSERT NAME) has broken school rules with regard to (use of phone/MP3 player in school/appropriate jewellery).

As a consequence the item was again confiscated and (INSERT NAME) has been made aware that it must now be collected by a parent/carer. I would therefore be grateful if you would telephone the school reception to arrange a convenient time to collect the item.

Should there be a need to confiscate this or another item in the future, we will once again be asking you to come in to school to collect it.

Yours sincerely

Darren J Lyon
Headmaster



CONFISCATED PROPERTY FORM

Property belongs to

Form

DESCRIPTION OF PROPERTY (Please tick)

Mobile Phone	MP3	Headphones	Jewellery	Other (Please state)
<input type="checkbox"/>				

Additional details if required

DETAILS OF CONFISCATION

Confiscated by

Date confiscated

Location

Classroom / Corridor / Outside / Elsewhere

Reason for confiscation

Inappropriate item / Inappropriate use

VISUAL CHECK OF PROPERTY

Visual check carried out (Y/N)

Carried out by

Item is undamaged / damaged
(Please detail if appropriate)

PERIOD OF CONFISCATION

Length *(item to be kept in safe)*

Property returned to *(Student/Parent to sign)*

Name	Signed	
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Property returned by
(Staff member to sign)

Name	Signed	
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Date of return