

BEHAVIOUR POLICY

Confiscation

The rights of staff to confiscate items:

A teacher or other member of staff may only seize, retain or dispose of a pupil'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 school the headteacher has delegated to all teaching staff the authority to confiscate items from pupils 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 the school week. However mobile phones, for example, are treated differently at St Mary's (see below).

The secure storage of confiscated items:

Pupils 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 school finance office, for storage in the school safe. If similar items have been confiscated from several pupils, such as mobile phones or personal music-players for example, finance office staff should ensure that they are clear which item belongs to which pupil.

Instances when the school chooses not to return an item to the pupil:

- Items of value which the pupil should not have brought to school, or has misused in some way, might, if the school judges this appropriate and reasonable, be stored safely at the school until a responsible family adult can come to retrieve them. For example, there is no acceptable reason why a pupil should bring a cigarette lighter to school. In such circumstances retention is a reasonable step both to protect property, and to enable discussion about whether the pupil is smoking and how this can be addressed.
- Other items which the pupil should not have had in their possession, particularly of an unlawful or hazardous nature, may be given by the school 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.
- There may be some items of no value, such as an inappropriate message scrawled on a piece of paper, may simply be disposed of. However, staff should keep in mind that some items of seemingly no value may have emotional value to the child — staff should establish if this is the case before deciding whether or not to dispose of the confiscated item.

Recording the confiscation:

Staff should keep records of items they confiscate and the grounds for the action, so that they may justify them later if challenged. These records 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 pupils or staff.
- An item poses a threat to good order for learning: for example, a pupil uses a personal music-player in class.
- An item is against school uniform rules: for example, a pupil refuses to take off a baseball cap on entering a classroom.

- An item poses a health or safety threat: for example, a pupil wearing large ornate rings in PE may present a safety threat to other pupils.
- An item which is counter to the ethos of the school: 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 items/material:

The legal power for school staff to search pupils currently only extends to weapons. A pupil 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 school might use its legal power to discipline if the pupil unreasonably refuses to cooperate. However, if it is felt necessary for a pupil to be searched for (say) illegal drugs or stolen property, that should be done by the police rather than school staff using the appropriate powers available to them.

Mobile Phones:

Mobile phones 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), phones being switched on in lessons or assemblies, the use of the camera function on a phone, and the use of phones 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 phone such as music player software. It is unacceptable for pupils to use phones or other technological equipment to humiliate or bully other members of the school 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 pupil's permission is not. In some circumstances it may be reasonable for a member of staff to ask a pupil to reveal a message for the purpose of establishing whether cyberbullying has occurred, for instance, but if the pupil refuses then the member of staff should not enforce the instruction. The staff member can, however, legitimately issue a disciplinary penalty for failure to follow a reasonable instruction.

Where mobile phones are confiscated, staff will give the phone to the finance office for safe keeping, and notify the relevant Learning Coordinator. The Learning Coordinator will only return the phone to a parent. The school has considered the safety of pupils, the majority of whom travel by car, train or school coach: where a parent believes that safety is a concern, he/she may come to school in order to collect the phone from the Learning coordinator as soon as is convenient – the usual period of confiscation will not apply.