

Confiscation of Mobile Phones

Justification

It was evident towards the end of last year that the use of mobile phones around school by students was disrupting learning and a source of bullying. Their inappropriate use was affecting students' progress and was a safeguarding concern. The schools behaviour policy states that mobile phones "should not be turned on or visible throughout the school day, at any time. If this is found to be the case they will be confiscated." To address the school's concerns around learning and safeguarding, the policy regarding the use of mobile phones was modified early this term to address the use of phones on site and the high number of repeat one-day confiscations. Parents were informed of this change by letter and students were informed in assembly.

The revised policy outlines an escalation in the sanction applied should a phone be confiscated due to a student repeatedly breaking the school rule as follows:

- On the first occasion students will be able to collect their phone from the school office at 3pm on the same day.
- On the second occasion the phone will only be returned to the student's parent/carer. The phone can be collected from the school reception after 3pm the same day.
- Students whose phone is confiscated for a third time in a year, must arrange for parents to collect it after 3pm from the school reception, seven days (**five** full school days) after it was originally removed. E.g. A phone confiscated on a Thursday will be returned at 3pm on the following Thursday.
- The length of confiscation of a student's mobile phone due to a fourth incident will be at the discretion of the Headteacher.

The policy also states that: If a student is found with the mobile phone of another student, its use will be recorded against both parties.

Parents and students were informed of the change in policy via the summer edition of our school newsletter, a letter dated 12/09/17 to parents which was sent home and published on the school's website and also in assemblies with students.

We fully understand that parents/carers will need to contact their children urgently on occasions. Urgent calls between students and parents/carers should be via the school landline system or students may use their own phone with the permission and in the presence of a member of staff.

The Law

Education and Inspections Act 2006

Section 89 – Determination by head teacher of behaviour policy

- (1) The head teacher of a relevant school must determine measures to be taken with a view to –
- (a) promoting, among pupils, self-discipline and proper regard for authority,
 - (b) encouraging good behaviour and respect for others on the part of pupils and, in particular, preventing all forms of bullying among pupils,
 - (c) securing that the standard of behaviour of pupils is acceptable,
 - (d) securing that pupils complete any tasks reasonably assigned to them in connection with their education, and
 - (e) otherwise regulating the conduct of pupils.

(6) The measures determined by the head teacher under subsection (1) must be publicised by him in the form of a written document as follows –

- (a) he must make the measures generally known within the school and to parents of registered pupils at the school,

Section 91 Enforcement of disciplinary penalties: general

- (1) This section applies in relation to a disciplinary penalty imposed on a pupil by any school at which education is provided for him, other than a penalty which consists of exclusion.
- (2) The imposition of the disciplinary penalty is lawful if the following three conditions are satisfied.
- (3) The first condition is that the imposition of the penalty on the pupil –
- (a) is not in breach of any statutory requirement or prohibition, and
 - (b) is reasonable in all circumstances.
- (4) The second condition is that the decision to impose the penalty on the pupil was made –
- (a) by any paid member of the staff off the school, except in circumstances where the head teacher has determined that the member of staff is not permitted to impose the penalty on the pupil, or
 - (b) by any other member of the staff of the school, in circumstances where the head teacher has authorised the member of the staff to impose the penalty on the pupil and it was reasonable for the head teacher to do so.
- (5) The third condition is that the decision to impose the penalty was made, and any action taken on behalf of the school to implement the decision was taken –
- (a) on the premises of the school, or
 - (b) elsewhere at a time when the pupil was under the lawful control or charge of a member of staff of the school.

Guidance to Schools

Behaviour and Discipline in Schools – January 2016

Page 11 section 35 (1)

Confiscation of inappropriate items. What the law allows:

35. There are two sets of legal provisions which enable school staff to confiscate items from pupils:

- 1) The **general power to discipline** (as described in the bullets under the heading “Discipline in Schools – Teachers’ Powers” on pages 3 and 4) enables a member of staff to confiscate, retain or dispose of a pupil’s property as a punishment, so long as it is reasonable in the circumstances.

Discipline in Schools – Teachers powers

Pages 3 and 4

Key points

- Teachers have statutory authority to discipline pupils whose behaviour is unacceptable, who break the school rules or who fail to follow a reasonable instruction (Section 91 of the Education and Inspections Act 2006).
- The power also applies to all paid staff (unless the head teacher says otherwise) with responsibility for pupils, such as teaching assistants.
- Teachers can discipline pupils at any time the pupil is in school or elsewhere under the charge of a teacher, including on school visits.
- Teachers can also discipline pupils for misbehaviour outside school.
- Teachers have a specific legal power to impose detention outside school hours.
- Teachers can confiscate pupils’ property.

On a number of occasions parents have suggested that the confiscation of their child’s phone amounts to theft. In law a person is guilty of theft if s/he ‘dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it’. This is clearly not the case when the school is applying the behaviour policy.