**EDUCATION ACT 1996**

Education Act 1996 - power of members of staff to search pupils for prohibited items - Sec 550ZA. Staff can search for;

* Sec 139 CJA item (bladed article/knife etc.)
* Offensive Weapon
* Controlled Drug
* Alcohol
* Stolen article
* Article likely to be used to commit offence (except where a person is incapable of committing the offence due to their age) or
* Item likely to cause personal injury or damage to property of any person.
* Prohibited item (tobacco and cigarette papers/firework/pornographic images)
* Any other item which the school rules identify as an item for which a search may be made.

There must be reasonable grounds for suspecting that the pupil has the item with them or in their possessions (includes any goods over which the pupil has or appears to have control)

A ‘Member of staff’ is any teacher who works at the school or any other person, with the authority of the head teacher, has lawful control or charge of pupils for whom education is being provided at the school.

**Sec 550ZA** states that members of staff cannot be liable for any proceedings/loss/damage of items when lawfully carrying out their powers of seizure, retention and disposal.

**When/by who the search can be carried out?** (Section 550ZB) – the head teacher can carry out the search or someone (member of staff as per Section 550ZA) who is authorised to do so by the head teacher. However;

*(550ZB (3))Nothing in any enactment, instrument or agreement shall be construed as authorising a head teacher of a school in England to require a person other than a member of the security staff of the school to carry out a search under section 550ZA.*

‘Security Staff’ – a member of staff whose work at the school consists mainly or wholly of security related issues.

So, only a member of the security staff can be **required** to carry out the search (other staff may be willing to of course, if so authorised).

**Where/When?** – If the member of staff and the pupil are on school premises or they are elsewhere and the member of staff has lawful control or charge of the pupil.

MAY USE SUCH FORCE AS IS REASONABLE IN THE CIRCUMSTANCES IN EXERCISING THAT POWER

**Conditions of Search**;

* Only outer clothing may be removed
* Must be the same sex
* Second staff member present, also of the same sex

UNLESS,

An urgent search is needed due to a risk of serious harm being caused to a person if the search is not carried out **and**

In the time available it is not reasonably practical for the search to be carried out by a person of the same sex or in the presence of another member of staff.

**Outer Clothing** – any item of clothing not worm wholly against the skin or directly over garments of underwear. Includes hats/shoes/boots/scarfs and gloves.

**Sec 550ZC** gives power to seize, retain and dispose of items found.

Force can be used as is deemed reasonable in the circumstances. When disposing or returning items the person must have regard to guidance issued by the Secretary of State.

Staff may seize and retain anything which they reasonably suspect of being a prohibited item (under 550ZA) or evidence of an offence.

**Alcohol** – may retain or dispose of it and the container (without regard for Secretary of State Guidance)

**Drugs**;

Must deliver to a police officer (legislation always mentions ‘as soon as reasonably practicable’) **but may**

Dispose of it if the person thinks there is a good reason to do so

**Stolen Article** – deliver to police but may return to owner (if not possible) retain or dispose if there is a good reason to do so

**Article used in commission of offence or likely to cause serious harm to a person or damage to their property must**;

Deliver to police or return to owner or retain or dispose

**Article prohibited by school rules** – return to owner, retain or dispose.

**ELECTRONIC DEVICES**

Electronic Devices – when seized and prohibited by 550ZA, **the person who seized the item** may examine any data or files on device if they think there is a good reason to do so.

Following examination they can erase any date or file from the device if they believe there is a good reason to do so.

**Sec 139 items (knives/blades etc.)/offensive weapons/evidence of offence** – must deliver to a police officer (this does not supercede the above options in relation to evidence of an offence)

**This is in relation to any item prohibited under 550ZA or any item suspected of being so.**

**SUMMARY**

**Staff (on authority of the head teacher) can search pupils for knives, blades, offensive weapons, stolen items, drugs, alcohol, fireworks, tobacco and papers, pornography, items prohibited by the school or any item used in commission of an offence, evidence of an offence or an item likely to be used to seriously harm a person or damage their property (or any such items believed to be so).**

**They can seize, retain or dispose of these items. Most of these items must be delivered to the police, unless there is a good reason to do otherwise.**

**No staff can be held liable for any loss or damage to these items**

**Mobile phones can be checked and data erased, if there is good reason.**

**Reasonable force can be used to do this.**

**Education and Inspections Act 2006**

Section 93 of the Education and Inspections Act 2006 allows for members of staff to use force to prevent pupils from committing an offence, causing injury or damage or disrupting the discipline of the school.  
  
A person to whom this section applies may use such force as is reasonable in the circumstances for the purpose of preventing a pupil from doing (or continuing to do) any of the following, namely-

* committing any offence
* causing personal injury to, or damage to the property of, any person (including the pupil himself), or
* Prejudicing the maintenance of good order and discipline at the school or among any pupils receiving education at the school, whether during a teaching session or otherwise.

This section applies to a person who is, in relation to a pupil, a member of the staff of any school at which education is provided for the pupil.  
  
The power may be exercised only where-

* The member of the staff and the pupil are on the premises of the school in question, or
* They are elsewhere and the member of the staff has lawful control or charge of the pupil concerned.

This does not authorise anything to be done in relation to a pupil which constitutes the giving of corporal punishment within the meaning of [**section 548**](https://www.pnld.co.uk/members/legal-narrative-detail/?id=42961a2c-93d9-eb11-bacb-0022483f57c9) of Education Act 1996.  
  
The powers conferred by this section are in addition to any powers exercisable apart from this section and are not to be construed as restricting what may lawfully be done apart from this section (this power doesn’t supercede any other section but is in addition to them).  
  
In this section, **offence** includes anything that would be an offence but for the operation of any presumption that a person under a particular age is incapable of committing an offence.

It is emphasised that the powers are for the purpose of the prevention of harm and not for the purposes of punishment (since corporal punishment has been generally banned in schools since the Education (no.2) Act 1986). The use of force in relation to offences or anticipated offences is allowed by section 3 of the Criminal Law Act 1967, and the right to use force in self- defence may also be relevant**, but section 93 applies to circumstances well beyond the criminal law.**

**SUMMARY**

**Any member of staff who attends the same school as the pupil can use reasonable force to prevent a crime, injury to anybody or damage to anybody’s property or to maintain the good order and discipline of the school.**

**This is relevant when on school premises or the staff member has lawful control or charge of the pupil (i.e. school trips).**