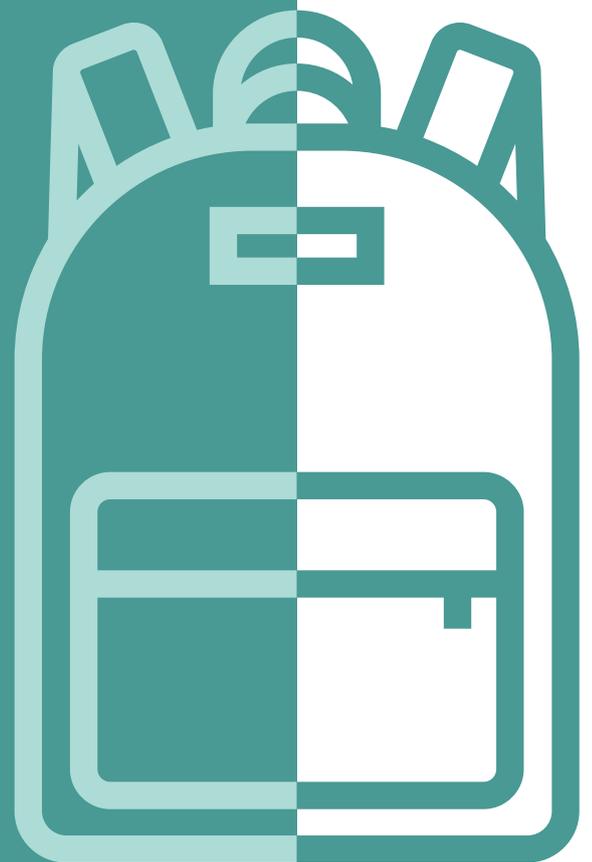


Bag Check Code of Practice

An advisory code of practice
for the checking of bags and
parcels in retail stores



Foreword

Bag checks are conducted by retailers in an attempt to control theft. While this practice may be necessary, privacy issues need to be considered and the checks conducted with minimal intrusion to the consumer.

This Code has been developed by the National Retail Association in consideration of the needs of both retail and consumer groups.

The purpose of the Code is to provide principles and practices in relation to bag checks so that shoppers and retailers can approach the situation with full knowledge of their rights and obligations.

Many of these principles involve the provision of information. Clearly, not all conflicts will be avoided. However, the Code provides procedures for the control of conflicts when they arise.

The principles and procedures are divided into:

- the legal position that is determined by the general law of contract and must be complied with;
- principles that have been adopted following consultation with interest groups;
- suggested practices for how the legal position and agreed principles might be met or improved.

Enquiries regarding the operation of the Code should be directed to the National Retail Association on **1800 RETAIL (738 245)**.

The store's right to conduct bag checks

Legal position

If a customer enters a store, they do so under a licence. The shopkeeper may make that entry condition upon showing bags, parcels, containers and prams for checking.

If special requirements are imposed, these must also be made a condition of entry (e.g. items carried into the store without proof of purchase).

Agreed principles

Personal handbags will not be checked unless they are larger than an A4 sheet of paper (210mm x 297mm) or the shopkeeper is certain that the handbag conceals unpaid goods that are the property of the shopkeeper.

All other bags, parcels, containers and prams that could reasonably be expected to conceal goods may be checked.

Suggested practices

The following wording is suggested for use on entrance signage:

This store complies with the National Retail Association's bag check Code of Practice.

It is a condition of entry that, if requested by our staff, you present any bags, parcels, containers or prams for inspection before leaving the store.

Notifying customers of bag check policy

Legal position

If you intend to conduct bag checks, you must notify customers by displaying a notice that clearly states this intention, at a point where the customer can see it prior to entry.

If other conditions apply, these should also be covered in the notice. If a shopper enters a store that displays a notice, it implies that they accept or consent to the store's conditions of entry.

Agreed principles

Signage establishing entry conditions will be prominently displayed at entrances to stores, as large as practicable, in simple language and should indicate that:

- the customer agrees to a bag check by entering the store;
- checks are done on bags, parcels, containers and prams.

Supplementary signage should indicate the shopkeeper's commitment to the code, particularly in regard to the checking of personal handbags. The customer rights and obligations notice will be incorporated into any literature that the store manager provides to customers on receipt of enquiries.

Suggested practices

The key to avoiding disputes is to provide as much information as possible in the first instance. You should:

- ensure your signs make reference to the Code;
 - consider translating signage and the notice if your business is in a culturally & linguistically diverse area;
 - display the notice in a highly visible location or have it readily available.
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Procedures for conducting bag checks

Legal position

Bag checks are voluntary, and may only be conducted with the consent of the customer. A person who forcibly conducts a bag check against a customer's will may be liable for assault.

Agreed principles

Any requests to check bags should be confident, firm & polite.

Any checks conducted should minimise the degree of intrusion.

The employee or shopkeeper should request the customer to open the bag himself or herself. There should never be any direct physical interference by the shopkeeper or employee.

If an object obstructs the view into the bag staff may ask the customer to remove the obstruction. Staff should not touch the obstruction themselves.

Dispute procedures

Legal position

A shopper can refuse to allow a bag check. In that situation, a shopkeeper may ask the shopper to leave the store and not return unless he or she is prepared to comply with the store's conditions of entry. In doing so, the shopkeeper is terminating the licence agreement. A shopkeeper or employee who forcibly searches a bag against a customer's will may be liable for assault.

A shopper who has been forcibly detained by a shopkeeper may sue for false imprisonment if they have not committed an offence. You must therefore be absolutely certain that an offence has been committed by the shopper before you forcibly detain or search the shopper.

Agreed principles

Employees should not, under any circumstance, enter into a dispute with a customer over a request to check bags or a suspected theft. Under no circumstances should employees attempt to forcibly restrain a customer or interfere with any bags.

If any dispute arises, the employee should immediately summon the store manager.

The manager will explain the conditions under which the customer entered the store. If the customer again refuses to offer the bags for checking, the manager may ask the customer to leave the store. If the customer refuses to leave the store manager may summon a police officer.

Staff training

Legal position

Retail personnel involved with the Code's implementation should be given details of the Code.

Suggested practices

The most efficient means of providing details of the Code to relevant employees will depend on the size and structure of the business.

Mechanisms that may be considered include:

- induction courses;
- staff training sessions;
- internal memoranda;
- display of the Code or an appropriate staff instruction on notice boards;
- distribution of the Code.

Where the Code is not distributed to employees, it is recommended that copies be made available on request.

Alternative measures

Suggested practices

It is recommended that you use additional security measures where practical (e.g. electronically sensitised price tags, mirrors, security guards or bag check services) and acknowledge all customers warmly.

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