

## **CONDUCTING A SEARCH – POLICY AND PROCEDURE**

### **1. Aims and scope**

Trust and mutual respect are essential features of the ethos at d'Overbroeck's and of the interactions among members of our school community. It is nevertheless possible in any school that circumstances may arise where it is necessary to conduct a search for things which are banned under school rules or included in the DfE list of 'prohibited' items. Such a search would generally be motivated by the need to safeguard the health, safety and welfare of students and/or other members of the school community.

In practice, such searches happen very rarely. However, if and when they do, it is important that the search is done safely, sensitively and in accordance with the rights of students and the statutory powers of schools and school staff. The purpose of this document is to set out the circumstances in which a search may be conducted and the procedure which must be followed by staff when doing so.

The contents of this policy and procedure are written with reference to the guidance given by the DfE in the document entitled *Searching, screening and confiscation - Advice for headteachers, school staff and governing bodies*, February 2014 ('SS&C').

### **2. What may be searched for?**

- Any of the items that a student may have in his or her possession which appear in the DfE list of 'prohibited' items. These include knives or weapons, alcohol, illegal drugs, stolen items, tobacco and cigarette papers, fireworks, pornographic images and any article that is reasonably suspected of having been, or of being likely to be, used to commit an offence or to cause personal injury to, or damage to the property of, any person, including the student him/herself.
- Any items that a student may have in his or her possession which are banned under the school rules at d'Overbroeck's. Our Behaviour, Rules and Sanctions policy makes clear that any items which are banned under school rules including in the boarding houses, may be searched for.

'Possessions' means any goods over which the pupil has or appears to have control, including in pockets, bags, desks, lockers, electronic devices and, in the case of boarders, bedrooms including any drawers, cabinets, cupboards, etc, therein.

### **3. Searching with consent**

Wherever possible, a search should be conducted with the student's consent. Where a student has given his or her consent, then any item may be searched for. Consent does not need to be given formally in writing: it is enough for staff to ask and for the student to give his or her consent verbally.

#### **4. Searching without consent**

- Searching a student without his or her consent should be avoided wherever possible. Schools do, however, have the power to search without consent for items listed in Section 2 above.
- To conduct a search without consent, staff must have reasonable grounds for suspecting that a student may be in possession of a 'prohibited' or a banned item.
- Under these circumstances, staff have the power to conduct the search regardless of whether the student is found after the search to have that item. This includes circumstances where staff suspect a student of having items such as illegal drugs or stolen property which are later found not to be illegal or stolen.

#### **5. Who may conduct a search?**

- A search may be conducted by the Principal or Deputy Principal and any other authorised members of staff. In the absence of the Principal or Deputy Principal, the following senior staff may conduct a search or authorise one to be conducted by other colleagues: The Head of Years 7-11, The Head of Sixth Form, The Head of the International Section; and, in the case of our summer English courses, the Director of the English Summer Programme and the Head of Boarding.

#### **6. Procedure for conducting a search**

- Wherever possible, a search must be conducted in the presence of the student.
- In all cases, two members of staff must be present.
  - The member of staff actually conducting the search must always be of the same sex as the student.
  - Where a personal search is involved, the second member of staff must also be of the same sex as the student. Where a boarder's room is being searched but no personal search is involved, it is acceptable for the second member of staff to be of the opposite sex if a colleague of the same sex is not available.

There is a limited exception to this rule: a member of staff can carry out a search of a student of the opposite sex and without a witness present, but only where s/he reasonably believes that there is a risk that serious harm will be caused to a person if the search is not conducted immediately and where it is not reasonably practicable to call another colleague.

- Whether conducted with or without consent, a search must always be conducted sensitively and with due regard to the student's dignity and right to privacy.
- As part of a personal search, a student must not be required to remove any clothing other than outer clothing. 'Outer clothing' means nothing that is worn next to the skin or immediately over a garment that is being worn as underwear. Outer clothing does, however, include hats, shoes, boots, gloves and scarves.
- Staff may confiscate any prohibited or banned item(s) found as a result of a search. They may also confiscate any item, however found, which they consider harmful or detrimental to school discipline.

- Any controlled drugs, and any items suspected of being controlled drugs, would normally be handed over to the police. The same would usually apply to any items believed to have been stolen.

## **7. Where can a search be conducted?**

A search may be conducted on school premises or outside of school premises where staff are in charge of students, for example on a school trip in England. The statutory powers apply only in England.

## **8. Statutory guidance for dealing with electronic devices**

- In the process of conducting a search, a staff member may examine data or files on electronic devices if s/he believes that there is good reason to do so.
- Following the examination, if the device is to be returned to the student, the school may decide to erase any data or files if there is good reason to do so.
- In determining if there is a 'good reason' to examine or erase the data or files the staff member conducting the search must reasonably suspect that the data or file(s) in question have been, or could be, used to cause harm, disrupt teaching or break the school rules.
- If inappropriate material is found on the device, it will be up to senior staff to decide whether they should delete that material, retain it as evidence (of a criminal offence or a breach of school discipline) or whether the material is of such seriousness that it requires the involvement of the police.

## **9. Written records**

A written record must be made of any search, giving an explanation of the reasons for conducting the search, the circumstances in which it was conducted, who was present, what was searched, the outcome of the search and, where relevant, details of decisions made regarding any items of concern that may have been found. Records of all searches must be copied to senior staff and kept for future reference.

## **10. Informing parents**

Our policy at d'Overbroeck's is to share any concerns or relevant information with parents wherever possible, unless we have reason to believe that doing so could potentially be harmful to the student concerned.

There is no statutory requirement on schools to inform parents before a search takes place or to seek their consent to conduct the search. However, we will normally contact parents after any search regardless of the outcome. And we will, of course, inform parents in the event of alcohol, illegal drugs or potentially harmful substances being found.

## **11. Access to students' rooms in boarding houses**

Staff and contractors working for the school need to be able to access student rooms during the teaching day for cleaning and maintenance work, to conduct visits for prospective students and parents, etc. The school also reserves the right for the Houseparent, boarding and other staff to have access to student rooms at other times where there is a need to do so.

If 'prohibited items' as defined above, items banned under school rules or items that clearly should not be in students' rooms are found on such occasions, the items will be confiscated and the matter will be dealt with in the same manner as if the item(s) were to be found in the course of a search.

## **12. Dealing with complaints**

A complaint received from a parent about a search conducted on their child will be dealt with through the school's normal Complaints Procedure.

## **13. How these search powers accord with the obligations of schools under the European Convention on Human Rights (ECHR)**

- Under Article 8 of the ECHR, pupils have a right to respect for their private life. In the context of these particular powers, this means that pupils have the right to expect a reasonable level of personal privacy.
- However, the right under Article 8 is not absolute. It can be interfered with; but any interference with this right by a school must be both justified and proportionate.
- The powers to search in the Education Act 1996 are compatible with Article 8. A school exercising those powers lawfully should have no difficulty in demonstrating that it has acted in accordance with Article 8.

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