

## Screening, Searching and Confiscation Policy and Procedure

Date of Policy	August 2009
Last Updated	November 2011
Review Date Due	November 2012
Key Staff	Pastoral and Welfare staff, Residence Supervisors, Head Welfare/Director of Welfare and Accommodation (Cambridge)
Lead staff for review	Head of Welfare (Canterbury)

## **1.0 Aim**

- To provide a clear transparent policy that allows members of staff, volunteers and students to understand roles & responsibilities.
- The policy applies to all staff, including those with temporary contracts, honorary contracts, agency workers, and students when working as hall supervisors for Cats College.

## **2.0 Purpose**

- Provide guidance and information to staff and students to help them develop the confidence to know what action to take if they are concerned about room searches or personal searches, etc.

## **3.0 Legal Responsibility**

The Health and Safety at Work Act 1974 places a duty on employers to ensure, as far as is reasonably practicable, the health, safety and welfare at work of staff, students and other users of its premises.

This policy also relates to the Education and Inspections Act 2006 and the Substance Misuse Act 1971- Amendment 8 (3.3)

- 3.1 Ultimate responsibility for this policy and procedure lies with the Principal.
- 3.2 The college has a legal responsibility for the health, safety and welfare of its students, staff and visitors and aims to provide a safe, healthy and high quality

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learning environment. This includes the appropriate policing of residence halls, college property and not limited to personal belonging searches, etc

3.3 It is a criminal offence to knowingly allow premises the College own, manage or have responsibility for, to be used by any other person for administration or use of any controlled drugs and the production of such drugs. The law requires that if staff become aware of the use or supply of illicit drugs on the premises, then reasonable action must be taken to prevent this continuing.

All members of staff including volunteers but specifically tutors should understand their roles and be aware of the policy, procedures, and should ensure that students within their area are informed of the policy.

### **4.0 Introduction**

This policy is intended to give clear guidance on the screening, searching and confiscation of student's property and residential premises and takes into account the 'Department for Education non- statutory guidance (2012) - Screening, Searching and Confiscation – Advice for Head Teachers, staff and governing bodies'.

### **Key Points**

- College staff can search a student for any item banned under the college rules, if the student agrees.
- Head teachers and staff authorised by them have a statutory power to search students or their possessions, without consent, where they suspect the student has certain prohibited items. The items that can be searched for under this power are knives or weapons, alcohol, illegal drugs and stolen items.
- College staff can seize any banned or prohibited item found as a result of a search or which they consider harmful or detrimental to College discipline.

CATS College respects the privacy of its boarders and students. However, the College reserves the right to enter a student's room, with the student being given the choice of being present,

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when conducting a room search and without permission when conducting health and safety room checks/cleaning/maintenance inspections or without permission under the direction of the Principal should it be deemed essential.

### **5.0 Screening**

The College retain the right to screen students by walk through or hand held metal detectors, without the consent of the student. This type of screening can be carried out by an authorised member of staff but staff must not use physical contact. CATS Colleges do not currently use search equipment but retain the right to do so to ensure the health and safety of staff and other students is not compromised and legislation is complied with.

#### **Searching Procedure:**

- **Seek permission from senior management and ensure two staff are present to search.**
- **Inform the student that a search is going to take place and the reason why and ask for their permission if the search is for items prohibited by the College. Refusal by the student will be dealt with under the College's disciplinary process.**
- **If the search is for 'Prohibited items' (see section 7 for item list) no student consent is required.**
- **During the search the staff members can only ask the student to remove 'outer clothing' (see section 9.1)**
- **Once search has been completed staff to complete the search form attached to this policy and give to the Head of Welfare/Director of Welfare**

#### **Room Checks/Brief Inspection**

Room checks occur at prescribed times, for example, 11.00 pm to determine whether under 18 students are present and accounted for or between the hours of 8-00 am and 9.00am weekdays or 9.30 am and 10.00am weekdays or to determine that students wellbeing is intact, etc. This is an opportunity for Residence Hall Supervisors to also briefly visually scan rooms for any defects/damages etc,. If the hall supervisor suspects/believes or has good reason to believe that a student is hiding under a bed or closet in order to avoid attending college or is hiding someone else in their room then they are authorized to open wardrobes, look under beds and check bathrooms etc. Under these circumstances and particularly at times when room checks



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occur the opening of wardrobes will not constitute as a room search. In addition, students should expect hall supervisors to enter their rooms at these times and therefore should make every effort to be ready for college in the morning or dressed appropriately if it is 11.00pm.

When a Residence Hall supervisor enters a student room for a room inspection the staff member is authorized to conduct a visual search of the room but may not open drawers, refrigerators, etc. without the students permission. The staff member may request a student to open these items whilst conducting a room inspection. A room inspection will not demand the student's permission.

### **Searching a Room:**

- 1) Every search shall be based on timely information and conducted as soon as possible after the information or report is received.
- 2) There will always be present at least two staff members, where this is impossible, a second witness, preferably adult, should be present.
- 3) Before any room search and when it is practicable, room occupants will be notified of the reason for the search and will be afforded an opportunity to be present and voluntarily produce the items or materials sought. The room shall be searched in an orderly manner and all information shall be recorded. (At no time is a person's body to be searched.)\* The room shall be left in the same condition as it was when entered and the student will be notified about the search if not present.
- 4) During the search process, failure to comply with any reasonable request by a authorised personnel could result in the student facing formal disciplinary procedure, be asked to be removed from location and search conducted in their absence if looking for prohibited/illegal items. Reasonable requests shall include emptying of pockets, clothing, purses, etc.
- 5) The search form (appendix 1) will be completed and sent to Head of Welfare/Director of Welfare along with any confiscated items.

***Please also refer to Boarding Principles and Practice at CATS College for protocol on entering a student room.***

### **Searching with consent**

#### **College's common law powers to search:**

6.0 College staff can search students **with their consent** for any item which is banned by the College rules.

6.1 CATS College do not require having formal written consent from the Student for this sort of search – it is enough for the staff member to ask the student to turn out his or her pockets or search their bedroom or locker and for the student to agree.

6.2 If a member of staff suspects a student has a banned item in his/her possession/ accommodation, they can instruct the student to turn out his or her pockets or bag and if the student refuses, the staff member can apply the disciplinary policy.

6.3 A student refusing to co-operate with such a search raises the same kind of issues as where a student refuses to stay in a detention or refuses to stop any other unacceptable behaviour when instructed by a member of staff – in such circumstances, CATS Colleges can apply the College disciplinary policy.

### **7.0 Searching without consent**

Section 550ZA of the Education Act 1996 states: Knives, Weapons, Alcohol, Illegal Drugs and stolen items (referred to in the legislation as 'prohibited items') can be searched for without student consent.

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7.1 The search can be carried out when there are 'reasonable grounds' for suspecting that a student is in possession of a prohibited item. A search under these circumstances may only be undertaken with Senior Staff present who are authorised by the Principal. These Senior Staff include the Vice Principal and Head of Welfare

### **Establishing grounds for a search:**

7.2 The designated person carrying out the search must establish what constitutes reasonable ground for suspicion and document this using the 'search document 'appendix 1' attached to this policy. For example, staff may have heard other students talking about an item or a change in students behaviour, a positive drugs test or suspicion of illegal substances in their accommodation.

7.3 The powers allow College staff to search regardless of whether a student is found after the search to have that item. This includes circumstances where staff suspects a student of having items such as illegal drugs or stolen property which are later found not to be illegal or stolen.

## **8.0 Location of a Search**

8.1 Searches without consent can only be carried out on College premises or, if elsewhere, where a member of staff has lawful control or charge of the student, for example a schools trip in England or in a training setting. On a trip this should only be done in exceptional circumstances and usually after obtaining consent from Senior Staff in College whenever possible.

The legal powers only apply to England.

## **9.0 During the Search**

### **Extent of the search – clothes, possessions, desks and lockers**

#### **What the law says:**

9.1 The person conducting the search may not require the student to remove any clothing other than outer clothing. 'Outer clothing' means clothing that is not worn next to the skin or immediately over a garment that is being worn as underwear but 'outer clothing' includes hats; shoes; boots; gloves and scarves.

9.2 'Possessions' means any goods over which the student has or appears to have control – this includes desks, locker, bags, living accommodation.

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9.3 A student's possessions can only be searched in the presence of the student and another member of staff.

The power to search without consent enables a personal search, involving removal of outer clothing and searching of pockets; but not an intimate search going further than that, which only a person with more extensive powers (e.g. a police officer) can do.

### **10.0 Lockers, Desks, Boarding Accommodation**

Under common law powers, Colleges are able to search lockers, desks, accommodation living space for any item provided the student agrees. CATS College makes it a condition of having student accommodation that the Student consents to have these searched for any item whether or not the Student is present.

If a student does not consent to a search (or withdraws consent having signed a consent form) then it is possible to conduct a search without consent but only for the "prohibited items" listed above.

### **11.0 Use of force**

Reasonable force may be used by the person conducting the search by law but CATS College does not sanction the use of force in searching a student except in exceptional circumstances when the Principal is present or has specifically authorised it.

### **12.0 After the Search**

#### **The power to seize and confiscate items – general**

##### **What the law allows:**

12.1 The College's general power to discipline, as set out in Section 91 of the Education and Inspections Act 2006, enables a member of staff to confiscate, retain or dispose of a student's property as a disciplinary penalty, where reasonable to do so.

12.2 The member of staff can use their discretion to confiscate, retain and/or destroy any item found as a result of a 'with consent' search so long as it is reasonable in the circumstances. Where any article is thought to be a weapon it must be passed to the police.

12.3 Staff have a defence to any complaint or other action brought against them. The law protects members of staff from liability in any

proceedings brought against them for any loss of, or damage to, any item they have confiscated, provided they acted lawfully.

### **13.0 Items found as a result of a 'without consent' search**

#### **What the law says:**

13.1 A person carrying out a search can seize anything they have reasonable grounds for suspecting is a prohibited item (that is a weapon/knife; alcohol; illegal drugs or stolen items) or is evidence in relation to an offence.

13.2 Where a person conducting a search finds **alcohol**, they may retain or dispose of it.

13.3 Where they find **controlled drugs**, these must be delivered to the police as soon as possible unless there is a good reason not to do so – in which case the drugs must be disposed of.

13.4 Where staff find **other substances** which are not believed to be controlled drugs these can be confiscated where a member of staff believes them to be harmful or detrimental to good order and discipline. would include, for example, so called 'legal highs'. Where staff suspect a substance may be controlled they should treat them as controlled drugs as outlined above.

13.5 Where they find **stolen items**, these must be delivered to the police unless there is a good reason not to do so – in which case the stolen item should be returned to the owner. These stolen items may be retained or disposed of if returning them to their owner is not practicable.

13.6 In determining what is a "good reason" for not delivering **controlled drugs or stolen items** to the police the member of staff must have regard to guidance issued by the Secretary of State<sup>10</sup> (see paragraphs 1 to 4 below):

- Any **weapons or items which are evidence of an offence** must be passed to the police as soon as possible.
- It is up to staff to decide whether there is a good reason not to deliver stolen items or controlled drugs to the police.

**In determining what is a 'good reason', the member of staff should take into account all relevant circumstances and use their**

**professional judgement to determine whether they can safely dispose of a seized article.**

13.7 Where staff are unsure as to the legal status of a substance and have reason to believe it may be a controlled drug they should treat it as such.

13.8 With regard to stolen items, it would not be reasonable or desirable to involve the police in dealing with low value items such as pencil cases. However, college staff may judge it appropriate to contact the police if the items are valuable (iPods/laptops) or illegal (alcohol/fireworks).

13.9 Schools can dispose of alcohol as they think appropriate but this does not include returning it to the student.

#### **14.0 Telling parents and dealing with complaints**

CATS College is not required to inform parents before a search takes place or to seek their consent to search their child.

14.1 . There is no legal requirement to make or keep a record of a search but as good practice and a form of monitoring the College do expect the search form to be completed and retained in the Welfare Office and a note made on Magellan.

14.2 CATS College will inform the individual student's parents or guardians where alcohol, illegal drugs or potentially harmful substances are found, though there is no legal requirement to do so.

14.3 Complaints about screening or searching will be dealt with through the normal College complaints procedure.

#### **17.0 Confidentiality and Data Protection**

17.1 All cases will be handled in strict confidence and all personal information will be processed securely in accordance with the Data Protection Act 1998 and the College's confidentiality policy. It may be used by the relevant college managers to consider and plan any support needed and to manage the study relationship. Wherever possible, confidential disclosure of information by students will be honoured, unless the student or someone else is at risk.



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17.2 Staff cannot and should not promise total confidentiality. The boundaries of confidentiality should be made clear to the student. If the student discloses information that is sensitive, not generally known and which the student asks not to be passed on, the request should be honoured unless this is unavoidable in order for teachers to fulfill their professional responsibilities in relation to:

- Child protection and Inclusion
- Co-operating with a police investigation
- Referral to external agencies

Every effort should be made to secure the student's agreement to the way in which the college intends to use any sensitive information.

### **18.0 Recording and Monitoring of Searches**

18.1 - All searches carried out will be recorded on the Search Form (appendix 1) and retained by the head of Welfare/Director of Welfare.

18.2 – Yearly reviews will be carried out to ensure best practice and policy is adhered to.

#### Appendix 1 - Search Form

<b>Date:</b>	<b>Name of Student/s:</b>	<b>House Name:</b>
		<b>Room No/Item searched:</b>



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<p><b>Reason for search: (reasonable suspicion required)</b></p>
<p><b>Search authorised by :</b> .....</p> <p><b>Student/s offered to be present during search: Yes/No</b> (student/s must be informed of search and offered to be present)</p>
<p><b>Search carried out by:</b> .....</p> <p>.....</p> <p><b>(Two staff must be present for a room search)</b></p>
<p><b>Outcome of search:</b> (List items confiscated and give completed form to Welfare Team)</p>
<p><b>Welfare Team:</b></p> <p>Magellen updated: Yes/No/NA</p> <p>Student spoken to and appropriate sanctions applied: Yes/No/NA</p> <p>Police Informed: Yes/No/NA</p> <p>Parents Informed: Yes/No/NA</p> <p>SLG Informed: Yes/No/NA</p> <p>Date Search Log Completed:.....</p> <p>Signed off by: .....</p> <p>Date: .....</p> <p><b>Associated Resources:</b></p>

Link to Use of Reasonable Force – advice for head teachers, staff and governing bodies

<http://www.education.gov.uk/schools/pupilsupport/behaviour/f0077153/use-ofreasonable-force-advice-for-school-leaders-staff-and-governing-bodies>

Link to Behaviour and Discipline in Schools – guidance for governing bodies

<http://www.education.gov.uk/schools/pupilsupport/behaviour/g0076647/guidance-for-governing-bodies-on-behaviour-and-discipline>

Link to Behaviour and Discipline in Schools – advice for head teachers and school staff

<http://www.education.gov.uk/schools/pupilsupport/behaviour/f0076803/advicefor-headteachers-and-school-staff-on-behaviour-and-discipline>

Link to Information Commissioner for advice on the Data Protection Act

[http://www.ico.gov.uk/for\\_organisations/data\\_protection.aspx](http://www.ico.gov.uk/for_organisations/data_protection.aspx)

### **Legislative links**

Education and Inspections Act 2006

<http://www.legislation.gov.uk/ukpga/2006/40/contents>

Health and Safety at Work etc Act 1974

<http://www.hse.gov.uk/legislation/hswa.htm>