

DIGNITY & PRIVACY POLICY

Final Version, Ref no: OCDC5

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1. Purpose of Policy

This policy outlines the fundamental standards that young people in detention should be afforded in respect of their privacy and dignity.

2. Policy statement

Privacy and dignity are key components in the overall care and welfare young people. Young people in Oberstown must be treated in a manner that genuinely promotes their sense of worth; and be accommodated in living arrangements that respects their privacy and dignity.

Staff in Oberstown should:

- Support and promote young people's individual needs and differences.
- treat young people with respect and be cognisant of their gender, race, sexual orientation, age, religious beliefs and membership of an ethnic group such as the Traveller community.
- safeguard all confidential matters concerning young people and their families.
- ensure searches respect the privacy and dignity of each young person.

Campus safety and security requirements should be balanced with an environment that promotes privacy and dignity. Because of the nature of the facility, while privacy may not always be possible, the dignity of young people should be maintained at all times.

3. Scope of Policy

The responsibility for protecting and promoting privacy and dignity lies with staff at every level of the organisation. This policy applies to all staff at Oberstown including members of the Board of Management, members of visiting committees, independent advocates, staff from other agencies, students on placement and visitors. This policy should be read in conjunction with the Oberstown Search Procedure and the Oberstown Information Management Policy. It is the responsibility of relevant staff to ensure they are following the most recent version of this policy and that they understand all elements of it.¹

4. Legal framework

It is the principal aim of Oberstown Children Detention Campus under s 158 of the Children Act 2001 to provide appropriate educational and training programmes for children referred to the Campus by a court and to promote their reintegration into society as persons who are capable of making a positive and productive contribution to society. This must be secured by having regard to young people's health, safety, welfare, interests; providing them with proper care, guidance and supervision; preserving and developing young people's relationships with their families; exercising proper moral and disciplinary influences on young people and recognising their personal, cultural and linguistic identity.

According to s 180 of the Act, young people in Oberstown are in the lawful custody of the Director who is 'to do what is reasonable...in all the circumstances for the purpose of safeguarding or promoting the child's... health, development or welfare'.²

These obligations are fulfilled, among other means, through the implementation by staff of Oberstown's policies and procedures.

¹ See related documents section.

²Section 180(8)(b) Children Act 2001.

Dignity and privacy are a fundamental component of a young person's welfare, and, as per the *Child Care Act, 1991*, young people's welfare is of paramount importance.

National standards relating to young people in detention state that a factor in achieving positive care of young people is to create a living environment that respects young people's privacy and dignity.³ Furthermore, as per the Oberstown Employee Handbook, a guiding principle of the organisation is that young people are respected and supported while at the facility.⁴

4.1 Human rights standards

The United Nations Convention on the Rights of the Child (UNCRC), to which Ireland is a party, sets out the rights to which all children, including children in detention, are entitled. The Convention requires that all children are entitled to enjoy their rights without discrimination, they must have their best interests taken into account in all matters concerning children and have their views taken into account in all matters affecting them in line with their age and maturity. Under Article 40 of the Convention, every young person in conflict with the law has the right to be treated in a manner consistent with the promotion of their sense of dignity and worth, which reinforces the respect for the human rights and fundamental freedoms of others and which takes into account the young person's age and the desirability of promoting reintegration and assuming a constructive role in society.

Regard should also be had to the UN Rules for the Protection of Juveniles Deprived of their Liberty (1990) and the European Guidelines on Child-friendly Justice (2010).

More generally, principles of dignity and respect are found in the Convention for the Prevention of Torture and Inhuman and Degrading Treatment and Punishment (CPT) and the European Convention on Human Rights (ECHR), both of which are relevant to children deprived of their liberty. Under the ECHR Act 2003, 'organs of the state' (a phrase likely to include Oberstown) are required to act in a manner consistent with obligations under the ECHR.

5. Related Documentation

Documents that should be considered in conjunction with this policy are:

- United Nations Convention on the Rights of the Child⁵
- UN Committee on the Rights of the Child, General Comment No 10 on Children's Rights and Juvenile Justice, 2007⁶
- UN Rules for the Protection of Juveniles Deprived of their Liberty (1990)⁷
- European Guidelines on Child-friendly Justice (2010)⁸
- IYJS, Standards & Criteria for Children Detention Schools⁹
- Guidelines for good practice in Children Detention Schools.¹⁰
- Article 42A, Irish Constitution.¹¹

³ IYJS, Standards & Criteria for Children Detention Schools, 2008. Available at:

https://www.hiqa.ie/system/files/Standards_and_Criteria_for_Children_Detention_Schools_2008%20.pdf

⁴ See Oberstown Children Detention Campus, Employee Handbook, at 20.

⁵ UN Convention on the Rights of the Child (CRC). Available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>.

⁶ Available at:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolNo=CRC%2fC%2fGC%2f10&Lang=en

⁷ Available at

https://www.unodc.org/pdf/criminal_justice/United_Nations_Rules_for_the_Protection_of_Juveniles_Deprived_of_their_Liberty.

⁸ <http://www.coe.int/en/web/children/child-friendly-justice>

⁹ IYJS, Standards & Criteria for Children Detention Schools, 2008. Available at:

http://www.iyjs.ie/en/IYJS/Standards_and_Criteria_for_Children_Detention_Schools_2008%20.pdf/Files/Standards_and_Criteria_for_Children_Detention_Schools_2008%20.pdf

¹⁰ Available at:

<http://www.iyjs.ie/en/IYJS/Guidelines%20for%20Good%20Practice.pdf/Files/Guidelines%20for%20Good%20Practice.pdf>

¹¹ Available at: <http://www.irishstatutebook.ie/eli/cons/en/html>