

Policy Directive and Guidelines

USE OF DIGITAL IMAGES OF CHILDREN AND YOUNG PEOPLE

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Document Status

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Summary of Changes¹ from Previous Versions

Version no/Date	Change	Comment	Section/ Page
V2.0 / December 2019	• Updated to new format • Updated to new Data Protection (Bailiwick of Guernsey) Law 2017 • Incorporates previously issued guidance "Taking Photographs in Schools & Use of Pupil Photos in the Press" 2017		
	<i>Table started June 2019</i>		

¹ Material changes only. Minor changes (such as to punctuation, grammar, etc.) will not be listed

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1.0 Introduction

The development of digital imaging technologies has created significant benefits to learning, allowing staff and learner's instant use of images that they have recorded themselves or downloaded from the internet. However, staff, parents / carers and learners need to be aware of the risks associated with publishing digital images on the internet. Such images may provide avenues for cyberbullying to take place. Digital images may remain available on the internet forever and may cause harm or embarrassment to individuals in the short or longer term. It is common for employers to carry out internet searches for information about potential and existing employees. The school will inform and educate users about these risks and will implement policies to reduce the likelihood of the potential for harm

1.1 Policy Statement

This policy and guidance is designed to safeguard and protect learners and staff. It sets out the key principles expected of all members of the school community with respect to the use of digital images.

1.2 Policy Objectives

Assist schools to:

- Work safely and responsibly with the digital images, including the collection, storage and use of them as well as ensuring that consent has been sought where necessary.
- Have procedures in place to ensure consent is recorded (including the withdrawal of consent at any time)
- Minimise the risks attached to the use of digital images.

For parents/carers, the policy directive sets out to:

- Make clear their ability to give or withdraw consent
- Provide clarity on when and how parents should take images and their use

1.3 Policy Application

This policy applies to:

- Activities in schools
- Activities organised by schools or other organisations where participation is led by schools (e.g.: sports commission) that take place offsite including activity holidays and off-island visits
- Events organised by Education Services in partnership with schools and external providers

Throughout this policy directive, 'Headteacher' refers to Heads of Service and the College of Further Education Principal, and 'school' refers to any education establishment.

1.4 Accountabilities

The Headteacher/Principal/Head of Service/Teacher-in-Charge is accountable for the use of digital images of children and young people in their care

All staff are responsible for compliance with this policy directive. Staff should act as good role models in their use of ICT, the internet and mobile technologies.

1.5 Associated Documents

The following documents are available to Education Services staff via the intranet:

[Education Services Online safety policy](#)

[States of Guernsey Communication Manual: Social Media Guidelines](#)

2.0 Consent

Under the Data Protection (Bailiwick of Guernsey) Law, 2017 ('the Law') images (i.e. photographs and video recordings) of individuals are deemed to be personal data. Therefore, schools must ensure that they are complying with the requirements of the Law when photographing or video recording a child. These activities are deemed to be "processing", and whenever processing personal data, the responsible party must have a basis within the Law which allows that processing activity to take place.

In many cases, schools will be required to obtain consent before taking photographs or video recordings of children (consent being a "lawful basis"). Consent is required for any photographs or video recordings that are intended to be taken for purposes beyond the school's core educational function (e.g. school websites, school productions etc.). However, certain processing activities (such as for student ID badges etc.) do not require consent as they fall under the "legitimate interests" of the school, in this case for security and identity purposes. If unsure, the Data Protection Officer for Education, Sport & Culture can provide advice.

The Law does not distinguish between children and adults in terms of the processing of personal data. Therefore, in terms of seeking consent to process the personal data of children, the Law remains silent with regards to who the consent should actually be sought from. However, section 3 (2) (f) of the Children Law (2008) states that "except where it is shown to the contrary, it is presumed that a child is capable of forming a considered view from the age of 12 years". Therefore, consent is deemed to be required from the parent/carer of a child or young person who is under the age of 12 years only.

Where children are 'Looked After', schools must check consent on the corporate parent's behalf with the social worker. There may be other situations, (for example: in adoption placements; where a court order is in place following separation of parents; or following a resettlement from domestic violence) where a child's security is known by the school to be at risk, indicating the need for extra care.

The lead teacher of an activity is responsible for ensuring the appropriate consent and responsible use of photographs, video clips or webcam images in accordance with this policy for the young people in their care.

To avoid breaching the law through the processing of any images without consent, it is good practice to have a procedure for gaining consent and to include a means of reminding the

parents, at least at the start of every school year, that children might take part in events that will be publicised by the media. See Appendix 1 for example specific image and general consent forms.

3.0 Planning appropriate digital recording of children and young people

Appropriate photographs/digital recording require that young people are appropriately dressed and are not participating in activities that might bring the individuals or the school into disrepute.

When naming pupils in any published text do not use their photograph, whatever the media (print, web, broadcast or press), unless you have consent from the appropriate individual. Only young people's first names may be used anywhere on a website or blog, particularly in association with digital imagery.

4.0 Official school use of images of children and young people

4.1 Use in the school prospectus and other literature

Use photographs of young people only where you have the written consent of the parents.

4.2 Use of images of children and young people on websites and social media

With digital photography there is the possibility that images of children could be produced, manipulated and circulated without the parents' or children's knowledge. The dual concern which follows such a risk is that children might be exploited and a school or setting might be criticised or face legal action. Mitigating action is to make images on websites more difficult to manipulate - copy-protection, overlaying with a watermark, or published in low definition.

It is important to take care with identification using only first names and to respect parental views on the use of any photography of children on a website.

Increasingly users are generating content for websites e.g. young people and adults placing pictures on social media (eg **Facebook, Twitter, Instagram**). It is therefore important that schools/organisations ensure that young people, staff and parents understand the risks involved and are encouraged to adopt safe practice when generating content for school related websites.

4.3 Use of webcams in school

The regulations for using webcams are similar to those for CCTV (closed-circuit television). The area in which you set up the webcam must be well signposted and people must know that the webcam is there before they enter the area.

5.0 Official School Photographs

Schools will periodically invite an official photographer into school to take portraits/photographs of individual children and/or class groups. It is essential that when considering such an activity schools undertake their own risk assessment in terms of the validity of the photographer/agency involved. DBS checks (formerly CRB) will not be required as schools should ensure that levels of supervision by DBS checked members of staff are appropriate to safeguard the welfare of children at all times, when the visitors are present on the school site in line with Education Services policy.

6.0 Uses of imagery and copyright

6.1 Using digital imagery of children and young people supplied by a third party

Copyright is the right that the photographer automatically enjoys as the creator of commercial, commissioned work to prevent other people exploiting it and to control how other people use it. Copyright does not apply to images for private family use. If you commission photographs make sure that you have a signed agreement with the photographer that the States of Guernsey will own the copyright for items taken on your institution's behalf. Before using a photograph supplied by a third party you should check that the third party owns the copyright in the photograph and you should obtain their written (email) permission to use it. If you use a photograph without the copyright owner's permission, action can be taken against you for copyright infringement. Images downloaded from the Internet are also subject to copyright. Do not use sources like Google images to find photographs of children. Use a reputable stock images website or take advice from the States of Guernsey Communications Team.

Care must also be taken where performing particular plays and videoing scripts in particular may infringe copyright.

7.0 Use of images of children and young people by the media

It is good practice to always check consent records before embarking on any activity in school or off-site where media has been invited.

There may be occasions where the Press take photographs of young people. The manner in which the media use images is controlled through relevant industry codes of practice as well as the law. However, given your responsibility to parents and young people, it is sensible to confirm that broadcasters and press photographers are aware of the sensitivity involved in detailed captioning, one to one interviews, and close or sports photography.

Where you are satisfied that parents/guardians are happy to have their children appear in the media having consented in writing in accordance with this policy, then it is also reasonable to assume that publication of full names is acceptable as described in the

consent form. The exception to the use of full names is websites and blogs where only first names must be used. The institution cannot be held accountable for the storage and further use of images and names released to the media under the authority of the original written consent provided by the parent/guardian.

8.0 Parental right to take photographs

The Data Protection (Bailiwick of Guernsey) Law, 2017 does not apply to parents taking photographs or making a video recording for their own private use. The Law does not, therefore, stop parents taking photographs or making video recordings at school events. Parents are not permitted, however, to take photographs or to make a video recording for anything other than their own personal use. They may not sell videos of a school event. Recording and/or photographing other than for private use would require the consent of the other parents whose children may be captured on film. Without this consent The Data Protection (Bailiwick of Guernsey) Law, 2017 would be breached by the individual. The important thing is to be sure that people with no connection with your school do not have any opportunity to film covertly. Mitigating action is to display notices or include this instruction on any event tickets.

9.0 Images taken by young people

Education Services' online safety policy and 'Sexting' in Schools provides guidance, advice and links to support the safe and appropriate use of images. Learners must be made aware of the consequences of misuse of digital images taken by young people. Areas of increased concern would involve residential trips and usage in bedrooms, swimming etc. Children and young people need to be made aware that taking and distributing inappropriate photographs may be a criminal offence.

10.0 Examples of the use of images and the data protection law

The following list provides some examples of the use of images and the application of the Data Protection (Bailiwick of Guernsey) Law 2017.

Personal use:

- A parent takes a photograph of their child and some friends taking part in the school Sports Day to be put in the family photo album. These images are for personal use and the Data Protection Law does not apply.
- Grandparents are invited to the school nativity play and wish to video it. These images are for personal use and the Data Protection Law does not apply.

Official school use:

- Photographs of pupils or students are taken for building passes. These images are likely to be stored electronically with other personal data and the terms of the Law will apply.
- A small group of pupils are photographed during a science lesson and the photo is to be used in the school prospectus. This is unlikely to be personal data and the Law wouldn't apply, as long as the children and/or their guardians are aware this is happening and consent to this.

Media use:

- The local newspaper takes a photograph of a school awards ceremony. As long as the school has agreed to this, and the children and/or their guardians give their consent and are aware that photographs of those attending may appear in the newspapers, this will not breach Data Protection Law.

11.0 The Storage of photographs and consent forms

Photographs must be kept securely for authorised school or setting use only and disposed of either by return to the young person, parents, deletion or shredding as appropriate. Staff should be aware that images should not be copied or moved to other systems/files outside school. If permission is withdrawn for a photograph it must be deleted from the storage immediately.

Parental consent must be held young person's school record (such as on and MIS) and hard copies filed/scanned (if applicable). If permission is withdrawn, this record must be updated, staff advised and the written withdrawn of consent filed with original consent form. All records, digital and hard copies, should be destroyed one year after the young person leaves the institution.

APPENDIX 1: Example Consent Forms

Digital Imagery Consent Form

Name of young person :
Education establishment/ youth organisation:
We may take photographs of the children and young people and use these images in our publicity or the school's prospectus or in other printed publications as well as on our website. We may also make video or webcam recordings for school-to-school conferences, monitoring or other educational use including off site events. We may visit sites where webcams are in operation. From time to time, our establishment / school may be visited by the media who will take photographs or film footage of a visiting dignitary or other high profile event. Young people will often appear in these images, which may be reproduced in the local newspaper, websites or on televised news programmes. To comply with The Data Protection (Bailiwick of Guernsey) Law, 2017, we need your permission before we can photograph or make any recordings of your child. This permission will remain in place until the young person is no longer on our roll unless you write to the Headteacher to withdraw it.
I agree that you may - record my child's image by photograph, on video or by webcam and store on the school's systems - use my child's photograph in the school/establishment prospectus or other printed publications where <u>full names</u> may be included - use my child's image on the school/establishment or Education Department's websites and blogs where <u>first names</u> will be used - allow my child to be photographed or filmed in press events agreed by the school/establishment where their <u>full name</u> may be published. I understand that the school cannot control storage and any further use of this information by the media I understand that other young people may take digital images of my child during on and off-site activities
<i>Please note that websites can be viewed throughout the world and not just in Guernsey or Alderney or UK where UK law applies.</i>
Parent's or guardian's signature:
Date:
Name (in block capitals):
PLEASE RETURN THE COMPLETED FORM TO THE SCHOOL OR SERVICE AS SOON AS POSSIBLE. Should you wish to change your permission at any time you will need to put it in writing to the headteacher.

General Consent Letter and Form

School/College Name

Address and Contact details

Name

Address 1

Address 2

Address 3

Postcode

Date

Dear **Name**

Data Protection (Bailiwick of Guernsey) Law, 2017 – Consent to processing

As I am sure you are already aware, the Data Protection (Bailiwick of Guernsey) Law, 2017 ('the Law') came into force on 25th May 2018. The Law is based on the General Data Protection Regulation (GDPR) which also came into effect within Member States of the European Union on 25th May 2018. The purpose of the Law is to ensure that the Bailiwick of Guernsey is providing the same level of data protection to the Island's residents as is provided to EU citizens.

The Law brings about a number of additional obligations for organisations who process the personal data of residents of the Bailiwick of Guernsey. These obligations also apply to government, including all of the Island's public schools; therefore the schools are currently undergoing a review of practices in order to ensure compliance with the new Law.

One of the requirements of the new Law surrounds the correct use of "consent" for processing personal data. The Law now states that it must be clearly demonstrable that individuals have provided their consent to processing and must be "opt-in" not "opt-out". The consent must be freely given and individuals must be advised of their right to withdraw their consent to processing at any stage.

The school relies on consent from parents for certain processing including the use of pupil photographs and also for various apps, websites and other systems that are used which are not specifically for educational purposes. As such, and in order to ensure that <<School/College Name>> complies with the new Law, a list of processing activities which requires parental consent has been enclosed within this correspondence.

You as the parent/carer will be given further information about each of these processing activities and will have the option of either providing your consent or not providing your consent to each individual processing activity. This consent form will remain valid for pupils

throughout their time at <<School/College Name>>, unless you withdraw your consent to any of the processing at any stage or if the nature of the processing changes.

If you have any questions or concerns regarding the contents of this letter/consent form, please contact the school directly (contact details located at the top of this letter). If you have any questions from a data protection perspective, please could you address these to the States of Guernsey Data Protection Team by emailing data.protection@gov.gg.

Yours sincerely

XXXXXX

Headteacher

<<School/College Name>>

School Consent Form

To be completed by parent/carer and returned to [insert school] by [insert date].

Student Name: _____

Class/Year: _____

Parent/Guardian Name: _____

Please indicate your consent for student and or parent/carer to be shared with the following apps/sites:. If you would like to see more information about these apps/sites, please see the school's Fair Processing Notice [insert web address]:

[Update list below as appropriate]

- | | |
|---------------------------------------|---|
| ☐ Class dojo | ☐ Mathletics |
| ☐ Conjugemos | ☐ MILK |
| ☐ Duolingo | ☐ Quizlet |
| ☐ Google Suite | ☐ Quiz star 4 teachers |
| ☐ Groupcall | ☐ SNAB Online |
| ☐ iMLS | ☐ Socrative |
| ☐ Keedgo | ☐ Sum Dog |
| ☐ Kerboodle | ☐ Survey Monkey |
| ☐ Litcharts | ☐ Tiny Tap |
| ☐ LUCID Chart | |

Please indicate your consent to the use of student images, name and year/age group:

- | | |
|--|--|
| ☐ States of Guernsey social media | ☐ School website |
| ☐ School social media | ☐ School displays |
| ☐ School Photographs | ☐ Local media* |
| ☐ States of Guernsey publications | ☐ School Publications |

I confirm that I have read the letter dated [XX/XX/XX]. I understand that I may withdraw my permission to any of the above at any time by contacting the school and the consent will otherwise apply until the pupil leaves the school or until the processing changes.

Signed Parent/Carer: _____ **Date:** _____