

# LEGITIMATE INTERESTS ASSESSMENT

## Student & Staff Images for promotional purposes

### Part 1: Purpose test

- *Why do you want to process the data?*
- *What benefit do you expect to get from the processing?*
- *Do any third parties benefit from the processing?*
- *Are there any wider public benefits to the processing?*
- *How important are the benefits that you have identified?*
- *What would the impact be if you couldn't go ahead with the processing?*
- *Are you complying with any specific data protection rules that apply to your processing (eg profiling requirements or e-privacy legislation)?*
- *Are you complying with other relevant laws?*
- *Are you complying with industry guidelines or codes of practice?*
- *Are there any other ethical issues with the processing?*

It is important for students and staff to celebrate their successes, enhance access to education and create memories. It is important for the school to use such images to celebrate pupil success, promote the school and record instances of historical importance. This will also enhance education producing better outcomes for students.

Not undertaking these activities would likely result in:

- Reduced capability to recognise and celebrate pupil/school success with the wider Community
- Reduced creation and retention of records of historical interest
- Reduced ability to promote the school and what it can offer.

There is an 'opt out' in place enabling individuals to opt out of promotional use of images. The record of 'opt out' is retained in the pupil or staff record and checked prior to any publication of images.

Additionally, the school would like to retain images which relate to the school's history and achievements. As part of this they may retain images of ex-staff or ex-students. The images would have been taken based on consent or our legitimate interest, with an opportunity to withdraw consent or 'opt out', and would have been used for the purposes of:

- Celebrating successes
- Recording events/activities
- Promoting the school
- Enhancing education

Such images can enhance education provision and support inclusion and recreation. Typical 3<sup>rd</sup> parties who may have access to such images include:

- The school website provider
- Local and national media organisations
- School photographer
- Local Authority Records Offices (for images of historical importance)
- Social Media Platforms

When the students joined the school their parent/carers and students over the age of 12 were given the opportunity to 'opt out' of the use of their images for promotional purposes at any time by notifying the school. Staff are also able to 'opt out' of any non-statutory images being used.

Whilst every effort is made to remove images, this is not always possible if the images have been uploaded to a website and subsequently downloaded, shared on social media or used in a publication which has been distributed. For example, if a pupil in their last year of attendance at a school has their image used on a school prospectus, the prospectus is likely to remain in publication for a number of years before being refreshed. This is made clear in our privacy notices assuring our compliance with data protection legislation.

No images are routinely stored outside of the UK, however in the case of images uploaded to the web or social media, we are not able to restrict access to those images to the UK only.

We comply with regulatory guidance on this matter:

[Taking photographs: data protection advice for schools | ICO](#)

[Data protection in schools - Sharing personal data - Guidance - GOV.UK](#)

## Part 2: Necessity test

- *Will this processing actually help you achieve your purpose?*
- *Is the processing proportionate to that purpose?*
- *Can you achieve the same purpose without the processing?*
- *Can you achieve the same purpose by processing less data, or by processing the data in another more obvious or less intrusive way?*

Without the images we would be unable to support promotion or pupil success with pictorial context to the wider community, or enhance the recording of events of potential historical interest.

It is not always possible to achieve the aim without images, however where it is possible, that alternative method would be used.

Whilst the pupil or staff member attends the school, they have the opportunity to 'opt out' of our use of images to promote them and the school at any time. This right continues to apply even after students and staff have left the school.

## Part 3: Balancing test

### Nature of the personal data

- *Is it special category data or criminal offence data?*
- *Is it data which people are likely to consider particularly 'private'?*
- *Are you processing children's data or data relating to other vulnerable people?*
- *Is the data about people in their personal or professional capacity?*

The data does fall within the special categories of personal data as defined by data protection law only in so far as the digital images may allow viewers to assume the individuals race or religion in some restricted circumstances.

The data is not considered to be private.

We are processing child data; however the data was only used with parental consent (and consent from the pupil where they are 12 years of age or older), or in our legitimate interest with an 'opt out' facility.

Where there may be safeguarding concerns regarding the publication of images of either students or staff, there is the option to 'opt out' at any time. A record will be retained to ensure that images of those individuals are not captured or disseminated.

### **Reasonable expectations**

- *Do you have an existing relationship with the individual?*
- *What's the nature of the relationship and how have you used data in the past?*
- *Did you collect the data directly from the individual? What did you tell them at the time?*
- *If you obtained the data from a third party, what did they tell the individuals about reuse by third parties for other purposes and does this cover you?*
- *How long ago did you collect the data? Are there any changes in technology or context since then that would affect expectations?*
- *Is your intended purpose and method widely understood?*
- *Are you intending to do anything new or innovative?*
- *Do you have any evidence about expectations – eg from market research, focus groups or other forms of consultation?*
- *Are there any other factors in the particular circumstances that mean they would or would not expect the processing?*

There is an existing relationship with the individuals, including a clear relationship between the school, staff, pupils and their parent/carers at the time the images were taken. There is an option to 'opt out' of the use of images at any time, ensuring there is protection for those for whom publication may pose a safeguarding threat.

Many schools use social media platforms such as LinkedIn in order to promote their school and pupil achievements. Social media is more prevalent now, so using images in this manner is more widely expected and understood.

### **Likely impact**

- *What are the possible impacts of the processing on people?*
- *Will individuals lose any control over the use of their personal data?*
- *What is the likelihood and severity of any potential impact?*

<ul style="list-style-type: none"> <li>• <i>Are some people likely to object to the processing or find it intrusive?</i></li> <li>• <i>Would you be happy to explain the processing to individuals?</i></li> <li>• <i>Can you adopt any safeguards to minimise the impact?</i></li> </ul>	
<p>When a staff member or student commences a relationship with the school they are provided with a privacy notice explaining our use of images, as well as an option to 'opt out' of our use for promotional purposes. The 'opt out' ensures that individuals can opt out of all or some of the uses of images. This option to 'opt out' can be invoked at any point.</p> <p>Taking into consideration the 'opt out' facility, it is difficult to identify any possible negative impacts of using images for promotional purposes.</p>	
Can you offer individuals an opt-out?	Yes

## Making the decision

Can you rely on legitimate interests for this processing?	Yes
<p>This processing is unlikely to have any negative impact on individuals as where this may be the case, the 'opt out' option ensures that their images are not used for some or all promotional purposes.</p> <p>For images of historical interest it would be in the public interest for those images to be retained in perpetuity as a record of the event.</p>	
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