USE OF IMAGES

Images of individuals do count as personal data, but you do not always need consent to take or use them. If you intend to capture images as part of a research project you will need to apply for ethical review as per the normal protocol for research involving personal data.

Incidental capture of images (i.e. taking footage of attendees at an event)
Providing no one person is the focus of the image you do not need consent to capture and use it. You should still notify people that you are taking images through signage and event publicity. The notice should tell people what filming is taking place, what the images will be used for (including for general publicity purposes) and who to contact if they want further information, including what measures can be taken to exclude them from being filmed. Ideally you would send this information to individuals before they attend the event, and you must make the information available at the event. (See Annex 1 for an example of the type of information you should make available.)

Targeted capture of images
Where the capturing of an image is the purpose of the activity (for example if you are conducting a recorded interview) people should be told in advance that they will be photographed (or filmed) and they should be given the opportunity to refuse, which may mean that they can no longer participate in the activity.

What can you do with the footage?
- Legitimate interest – under the law if you can prove “legitimate interest” (which requires a balancing of the University’s interests and the subject’s interests in their rights of privacy) you can use the image without the individual’s consent. You should consider doing a formal balancing of interest test (see Annex 2).
- Consent – if you can’t show a “legitimate interest” then in most cases you will have to rely upon consent. Consent should be an affirmative “opt in” to be effective. It can be verbal, but you should then go on to note in writing when the individual gave consent, and what they consented to (i.e. whether the image is being used for a specific purpose, or for general promotional purposes). A simple consent form is contained in Annex 3.

If you do decide to secure consent, the individual must also be able to revoke that consent, which means that you will need to take reasonable steps to stop using the image, even where it has been published online.

If you intend to use the image for marketing purposes, and will be storing it in the University’s image database then please consult the guidance available on the University’s Communications website.

Children
- For the purposes of this document assume anyone under the age of 18 is a child.
- It is strongly recommended that you obtain consent if you are taking images of groups or individual shots of children. Consent should be also obtained from necessary parents/those with parental responsibility.

Further information
- If you want any further help on the above please contact Alice Temple on a.c.temple@leeds.ac.uk or Rebecca Messenger-Clark on r.messenger-clark@adm.leeds.ac.uk.
Footage of this event will be captured and used for the promotional activities of the [department/University].

The footage will be deleted from the [department/University’s] database after xxx years.

If you do not wish your image to be captured then please make yourself [known to [xxxx/avoid the photographer/wear a lanyard].

If you think that your image has been captured and you do not want it be used then please contact [local contact], or the University’s Data Protection Officer (https://dataprotection.leeds.ac.uk/contact-us/)
ANNEX 2

LEGITIMATE INTEREST TEST

Legitimate interests

Legitimate interests is likely to be most appropriate if:

- you use people’s data in ways they would reasonably expect and which have a minimal privacy impact; or;
- there is a compelling justification for the processing (the ICO does specifically refer to marketing as a potential legitimate interest).

If you want to rely on legitimate interests you should undertake a legitimate interests assessment (LIA) before you start the processing.

Firstly, identify the legitimate interest(s). Consider:
- Why do you want to process the data – what are you trying to achieve?
- Who benefits from the processing? In what way?
- Are there any wider public benefits to the processing?
- How important are those benefits?
- What would the impact be if you couldn’t go ahead?
- Would your use of the data be unethical or unlawful in any way?

Secondly, apply the necessity test. Consider:
- Does this processing actually help to further that interest?
- Is there another less intrusive way to achieve the same result?

Thirdly, do a balancing test. Consider the impact of your processing and whether this overrides the legitimate interest you have identified. You might find it helpful to think about the following:
- What is the nature of your relationship with the individual?
- Is any of the data particularly sensitive or private?
- Would people expect you to use their data in this way?
- Are some people likely to object or find it intrusive?
- What is the possible impact on the individual?
- How big an impact might it have on them?
- Are any of the individuals vulnerable in any other way?
- Can you adopt any safeguards to minimise the impact?
- Can you offer an opt-out?

If you choose to rely on legitimate interests, you are taking on extra responsibility for considering and protecting people’s rights and interests.

ANNEX 3

CONSENT TO CAPTURE AND USE IMAGE

“I give permission for the University of Leeds to use the image/footage of [me][my son/daughter] for:

[describe what the image will be used for and how it might be used ] (include a tick box);
[for other publicity material as the University thinks is appropriate]. (include a tick box)

The image will be deleted from the University’s database after xxx years

I understand if I have any queries, including if I want the University to stop using the image, I can contact [local contact ]; or the University’s Data Protection Officer whose details can be found on the University website (https://dataprotection.leeds.ac.uk/contact-us/)

Signed………………………………………. [(parent/individual with parental responsibility)]

Print name…………………………………

[Print child’s name………………………….]

Date…………………………………………"