

Information for Parents, Schools and Students

1. Taking Photographs in Schools

Aim of this guidance

This Good Practice Guidance is aimed at Education Authorities, parents, pupils and those working within schools, colleges and universities. It gives advice on taking photographs in educational institutions and whether doing so must comply with the Data Protection (Bailiwick of Guernsey) Law, 2001 ("the Law").

Recommended Good Practice

The Law is unlikely to apply in many cases where photographs are taken in schools and other educational institutions. Fear of breaching the provisions of the Law should not be wrongly used to stop people taking photographs or videos which provide many with much pleasure.

Where the Law does apply, a common sense approach suggests that if the photographer asks for permission to take a photograph, this will usually be enough to ensure compliance.

Photos taken for official school use may be covered by the Law and pupils and students should be advised why they are being taken.

Photos taken purely for personal use are exempt from the Law.

Examples

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 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 will be personal data but will not breach the Law as long as the children and/or their guardians are aware this is happening and the context in which the photo will be used.

Media use:

A photograph is taken by a local newspaper of a school awards ceremony. As long as the school has agreed to this, and the children and/or their guardians

are aware that photographs of those attending the ceremony may appear in the newspaper, this will not breach the Law

2. Right of access to examination records

This good practice note is based on guidance issued by the UK Information Commissioner and explains the right to access examination records under the Data Protection (Bailiwick of Guernsey) Law, 2001 ("the Law") and, in the case of educational institutions based in the UK, the Data Protection Act, 1998 ("the Act").

The Freedom of Information Act 2000 ("the FoI Act") also gives individuals the right to access other (non-personal) information held by educational institutions and public authorities in the UK, but does not apply to institutions or authorities based in the Bailiwick.

Most of the information schools, colleges and universities have relating to students' examinations will be personal data. Local schools and colleges need to deal with requests from pupils for information about their examination performance within 60 days and UK-based Universities and colleges need to deal with similar requests from students within 40 days.

What kind of requests may schools, universities and colleges receive?

Students may request information about examinations they have taken including:

- examination marks;
- examination scripts;
- examiners' comments; and
- minutes of examination appeals panels.

Students may request:

- university or college policies and procedures; and
- policies and procedures relating to marks and appeals.

Students usually request this information if they are unhappy with their examination result and are considering an appeal.

Are students entitled to this information under the Law and the Act?

There are two exemptions for certain exam-related information which universities and colleges can use.

- **Examination scripts (Schedule 6 (9) of the Law and 7(9) of the Act)**

Universities and colleges do not have to provide examination scripts or the information recorded in them.

- **Examiners' comments** – these are not covered by the exemption.

Comments recorded by an examiner about the performance of a candidate in an examination may be personal data and so available to a

student making a subject access request. This is the case whether the comments are on the examination script or on a separate marking sheet.

- **Examination marks (Schedule 6 (8) of the Law and 7 (8) of the Act)**

This exemption extends the period in which a college or university has to deal with a request for access to examination marks if the request is made before the results are announced. The college or university must respond within:

- five months of the date of the request; or
- 60 days (40 days in the UK) of the date the results are published;

whichever is earlier.

In practice, this exemption prevents students from getting their results before they are officially announced.

Requests made under the Freedom of Information Act

General information, such as policies and procedures, may be available to students at UK-based institutions under the FoI Act, although there are some exemptions. You can find information about the exemptions in our FOI guidance at www.ico.gov.uk.

Other considerations

- Students may try to get their marks early to gain an advantage over prospective competitors in the employment market or in the admissions process to an educational institution. Having the extended response period makes sure students all get their results at the same time.
- Some institutions may follow a policy of withholding examination results from students who haven't paid examination or course fees. There is no exemption in the Data Protection Act that a university or college could use to refuse a request for this reason. We would stress that providing an individual with results is not the same as awarding a degree or other qualification.

Good practice

The exemptions mentioned in this note are there for colleges and universities to use, if they want to. However, universities and colleges will benefit from being open, transparent and accountable and students will want to be confident that the examination process is fair and consistent.

Further Information

If you need any more information about this or any other aspect of data protection, please contact us.

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