

The Ballinglen Arts Foundation (the “Company”)

Data Protection Policy

2021

Section 1: Introductory Statement

The Company’s Data Protection Policy applies to the **personal data** held by the Company which is protected by the Data Protection Acts 1988 to 2018 and the GDPR (General Data Protection Regulation) which includes amendments to previous legislation.

The policy applies to all staff, the Board of Directors (the “Board”), attending Fellows, whether attending for the first time or returning, artists giving Masterclasses and Workshops and attendees thereat, students/school children attending classes and all others (including applicants for staff positions within the Company) insofar as the measures under the policy relate to them. Data will be stored securely, so that confidential information is protected in compliance with relevant legislation. This policy sets out the way personal data and special categories of data will be protected by the Foundation.

The Ballinglen Arts Foundation operates **Privacy by Design**’ method in relation to Data Protection. This means we plan carefully when gathering personal data so that we build in the data protection principles as integral elements of all data operations in advance. We audit the personal data we hold in order to:

1. Be able to provide individuals with access to their data;
2. Ensure it is held securely;
3. Document our data protection procedures;
4. Enhance accountability and transparency.

Section 2: Data Protection Principles.

The Company (the Board) is a Data Controller of personal data relating to its past, present and future staff, attending artists, students and children, donors and other members of the Ballinglen Community. As such, the Board is obliged to comply with the principles of data protection set out in the Data Protections Acts 1988 to 2018 and GDPR (General Data Protection Legislation) which can be summarised as follows.

1. Obtain and Process Personal Data fairly

Information on visiting artists, students, children and other is gathered with the help of Managing Director. In relation to information the Company holds on other individuals (members of staff, individuals applying for positions within the Company, and other individuals), the information is generally furnished by the individuals themselves with full and informed consent and compiled during the course of their employment or contact

with the Company. All such data is treated in accordance with Data Protection legislation and the terms of this Data Protection Policy. The information will be obtained and processed fairly.

2. Consent

Where consent is the basis for provision of personal data (e.g, data required to take part in courses or an outside event) the consent must be a freely given, specific, informed and an unambiguous indication of the data subjects wishes. The Company will require a clear affirmative action e.g. Ticking the box/signing the consent form. Consent can be withdrawn by data subjects in these situations.

3. Keep it only for one or more specified and explicit lawful purposes.

The Managing Director will inform individuals of the reasons they collect their data and the uses to which their data will be put. All information is kept with the best interests of the individual in mind at all times.

4. Process it only in ways compatible with the purposes for which it was given initially.

Data relating to individuals will only be processed in a manner consistent with the purposes for which it was gathered. Information will only be disclosed on a need to know basis, and access to it will be strictly controlled.

5. **Keep Personal Data safe and secure.**

Only those with a genuine reason for doing so may gain access to the information. Personal Data is securely stored under lock and key in the case of manual records and protected with computer software and encryption software in the case of electronically stored data. Portable devices, such as laptops or portable hard drives are encrypted, and password protected. Confidential information in relevant circumstances will be placed in a separate file which can easily be removed if access to general records is granted to anyone not entitled to see the confidential data.

6. **Keep Personal Data accurate, complete and up to date**

Staff, visiting artists, students, children and others attending the Company's courses etc. should inform the Company of any changes which the Company should make to their personal data and/or sensitive personal data to ensure that the individual's data is accurate complete and up to date. Once informed, the Company will make all necessary changes to the relevant records.

Records must not be altered or destroyed without proper authorisation. If alteration/correction is required, then a note of the fact of such authorisation and the alteration(s) to be made to the original record/documentation should be dated and signed by the person making the change.

7. **Ensure that it is adequate, relevant and not excessive**

Only the necessary amount of information required to provide an adequate service will be gathered and stored.

8. **Retain it no longer than is necessary for the specified purpose or purposes for which it was given.**

Some information will be kept for the duration of the individual's time in the Company. Thereafter, the Company's Schedule of Data Retention will apply. In the case of members of staff, the Company will comply with the requirements of the Revenue Commissioners with regard to the retention of records relating to employees. The Company may retain the data relating to an individual for a longer length of time for the purposes of complying with relevant provisions of law and/or defending a claim under employment legislation and/or contract and/or civil law.

9. Provide a copy of their personal data to any individual on request.

Individuals have the right to know and have access to a copy of personal data held about them, by whom, and the purpose for which it is held.

Section 3: Scope

The Data Protection legislation applies to the keeping and processing of **Personal Data**. The purpose of this policy is to assist the Company to meet its statutory obligations, to explain these obligations to staff, and to inform staff, visiting artists students and children's guardians how their data will be treated.

This policy applies to all Company staff, the Board, visiting artists, students, children and others (including prospective or potential visiting artists, students, children and applicants for staff positions within the Company) insofar as the Company handles or processes their **Personal Data** in the course of their dealings with the Company.

Definition of Data Protection Terms

In order to fully understand the Company's obligations there are some key terms which should be understood by all Company staff and all individuals who have dealings with the Company.

Data protection is the means by which the privacy rights of individuals are safeguarded in relation to the processing of their personal data.

Personal data is data relating to an identified or identifiable natural person i.e. a living individual who is or can be identified either from the data or, from the data in conjunction with other information that is in, or is likely to come into, the possession of the Data Controller.

Data Controller is the Board of Directors of the Company.

Data Subject is an individual who is the subject of personal data.

Data Processor is a person who processes personal information on behalf of a data controller **but does not include an employee of a data controller** who processes such data in the course of their employment. What is the impact of this? For example, an employee of the Company would not be a data processor but if the Company outsources data to an

outside organisation (such as an external payroll company) that organisation could be a data processor.

What is data processing? Data processing means performing any operation or set of operations on data, including:

- (i) obtaining, recording or keeping data;
- (ii) collecting, organising, storing, altering or adapting the data;
- (iii) retrieving, consulting or using the data, disclosing the information or data by transmitting, disseminating or otherwise making it available
- (iv) aligning, combining, blocking, erasing or destroying the data.

Special categories of Personal Data refers to **Personal Data** regarding a person's

- a) Racial or ethnic origin;
- b) Physical or mental health;
- c) Political opinions or religious or philosophical beliefs;
- d) Sexual life and sexual orientation;
- e) Genetic and biometric data;
- f) Criminal convictions or the alleged commission of an offence;
- g) Trade union membership.

Personal Data Breach- a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to personal data transmitted, stored or otherwise processed. This means any compromise or loss of personal data, no matter how or where it occurs.

Section 4: Rationale

The Company has a legal responsibility to comply with the Data Protection Acts 1988 TO 2018 and the GDPR.

This policy explains what sort of data is collected, why it is collected, for how long it will be stored and with whom it will be shared.

The Company takes its responsibilities under data protection law very seriously and wishes to put in place safe practices to safeguard individual's personal data. It is also recognised that recording factual information accurately and storing it safely facilitates an evaluation of

the information, enabling the Managing Director and the Board to make decisions in respect of the efficient running of the Company. The efficient handling of data is also essential to ensure that there is consistency and continuity where there are changes of personnel within the Company and the Board.

Section 5: Other Legal Obligations

Implementation of this policy takes into account the Company's other legal obligations and responsibilities. Some of these are directly relevant to data protection, for example: -

The **Freedom of Information Act 1997** provides *a qualified right to access to information held by public bodies which does not necessarily have to be "personal data" as with data protection legislation.* While most companies are not currently subject to freedom of information legislation, if a company has furnished information to a body covered by the Freedom of Information Act these records could be disclosed if a request is made to that body

Section 6: Relationship to the characteristic spirit of the Foundation

The Board and staff working as a team endeavour to:

Create a friendly, supportive, environment within which all artists and others attending the Foundation will have the opportunity to develop their full potential.

Provide a safe and secure environment for all attendees at the Foundation.

We aim to achieve these goals while respecting the privacy and data protection rights of staff, visiting artists, students and children and others who interact with us. The Company wishes to achieve these aims/missions while fully respecting individuals' rights to privacy and rights under Data Protection legislation.

Section 7: Personal Data

The Personal Data records held by the Company **may** include

1. Staff records

Categories of staff data:

As well as existing members of staff (and former members of staff), these records may also relate to applicants applying for positions. These staff records may include:

Name, address and contact details, PPS number, bank details, and Revenue tax details.

Original record of application and appointment to promotion posts.

Garda Vetting and completion of training.

Details of approved absences (career breaks, parental leave, sick leave etc.).

Details of work record.

Details of any accidents/injuries sustained on Company property in connection with the staff member carrying out their duties.

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a) Purposes: -

Staff records are kept for the purposes of:

- the management and administration of Company business (now and in the future);
- to facilitate the payment of staff, and calculate other benefits/entitlements (including reckonable service for the purpose of entitlements and/or redundancy payments where relevant);
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- human resources management;
- recording promotions made (documentation relating to promotions applied for) and changes in responsibilities, etc.;
- to enable the Company to comply with its obligations as an employer, including the preservation of a safe, efficient working environment (including complying

with its responsibilities under the Safety, Health and Welfare at Work Act 2005);

- to enable the Company to comply with requirements set down by the Arts Council, the Revenue Commissioners, and any other governmental, statutory and/or regulatory departments and/or agencies;
- for compliance with legislation relevant to the Company.

b) Location and Security procedures

- a. Manual records are kept in a secure, locked filing cabinet in the administration office only accessible to personnel who are authorised to use the data. Employees are required to maintain the confidentiality of any data to which they have access.
- b. Digital records are stored on password-protected locked secure location with adequate encryption and firewall software Omit in the locked cabinet of The Ballinglen administration office. The Company has an intruder and fire alarm system activated during out-of-office hours and entry to the building is controlled by secure entry system.

Visiting Artists, Students and children's records: -

(a) **Categories of data:** These may include:

- Information which may be sought and recorded and may be collated and compiled during the artists/students and children's time at the Foundation.. These records may include:
 - name, address and contact details, PPS number;
 - date and place of birth;
 - racial or ethnic origin
 - whether they are medical card holders;
 - any relevant special conditions (e.g., health issues etc.) which may apply
- Photographs and recorded images of visiting artists, students, children and others (including at Company events) are managed in line with our policy on taking and using photographs. Records of any monies paid to the Company.

(b) Location and Security procedures

Manual records are kept in a secure, locked filing cabinet in the administration office only accessible to personnel who are authorised to use the data. Employees are required to maintain the confidentiality of any data to which they have access.

Digital records are stored on password-protected computer with adequate encryption and firewall software in the administration office.

Files uploaded to the internet are password protected and only accessible to authorised personnel.

The Company premises has an intruder and fire alarm system activated during out-of-office hours and entry to the building is controlled by secure entry system.

In addition, it should be noted that the Ballinglen Protection Policy for Children includes a section on Data Protection in the context of children as set out in section 6.4 Appendix 4 of that policy and which is set out in full in Schedule One of this Policy and forms part of this Policy also,

C. Board of Directors' Records

(a) **Categories of Board data.** These may include: -

- Name, address and contact details of each member of the Board (including former members of the Board);
- Records in relation to appointments to the Board;
- Minutes of Directors' Meetings and correspondence to the Board; this may include references to individuals.

(b) **Purposes:** To enable the Board to operate in accordance with the Companies Acts and other applicable legislation and to maintain a record of board appointments and decisions.

Location and Security procedures

- a. Manual records are kept in a secure, locked filing cabinet in the administration office only accessible to personnel who are authorised to use the data. Employees are required to maintain the confidentiality of any data to which they have access.
- b. Digital records are stored on password-protected computer with adequate encryption and firewall software in the administration office.
- c. The Company premises has an intruder and fire alarm system activated during out-of-office hours and entry to the building is controlled by a secure entry system.

Other records

The Company may hold other records relating to individuals. Some examples of the type of other records which the Company will hold are set out below.

Creditors

- (a) **Categories of data:** the Company may hold some or all of the following information about creditors (some of whom are self-employed individuals):
 - name
 - address
 - contact details
 - PPS number
 - tax details
 - bank details
 - amount paid.
- (b) **Purposes:** This information is required for routine management and administration of the Company's financial affairs, including the payment of invoices, the compiling of annual financial accounts and complying with audits and investigations by the Revenue Commissioners.

Location and Security procedures

- a. Manual records are kept in a secure, locked filing cabinet in the administration office only accessible to personnel who are authorised to use the data. Employees are required to maintain the confidentiality of any data to which they have access.
- b. Digital records are stored on password-protected computer with adequate encryption and firewall software in the admin office.

- c. The Company premises has an intruder and fire alarm system activated during out-of-business hours and entry to the building is controlled by a secure entry system.

Charity Tax back forms

Categories of data:

The Company may hold the following data in relation to donors who have made charitable donations to the Company:

Name

Address

Tel number

PPS number

Tax rate

Signature and the gross amount of the donation

Purposes:

The Company is a Registered Charity and is entitled to avail of the scheme of tax relief for donations of money they receive. To claim the relief, the donor must complete a certificate (CHY2) and forward it to the Company to allow it to claim the grossed-up amount of tax associated with the donation. The information requested on the appropriate certificate is the donor's name, address, PPS number, tax rate, telephone number, signature and the gross amount of the donation. This is retained by the Company in the case of audit by the Revenue Commissioners

Location and Security procedures

- a. Manual records are kept in a secure, locked filing cabinet in the administration office only accessible to personnel who are authorised to use the data. Employees are required to maintain the confidentiality of any data to which they have access.
- b. Digital records are stored on password-protected computer with adequate encryption and firewall software in the administration office.

- c. The Company premises has an intruder and fire alarm system activated during out-of-office hours and entry to the building is controlled by a secure entry system.

E mails

The Company uses Word on MAC computers for all e-mails and each staff member has an office e-mail address. Personal e-mail addresses are not used for Company business.

Information is in line with our Data Retention Schedule, is located and stored as set out below.

Location and Security procedures

- a. Manual records are kept in a secure, locked filing cabinet in the administration office only accessible to personnel who are authorised to use the data. Employees are required to maintain the confidentiality of any data to which they have access.
- b. Digital records are stored on password-protected computer with adequate encryption and firewall software in the administration office.
- c. The Company premises has an intruder and fire alarm system activated during out-of-office hours and entry to the building is controlled by secure entry system.

CCTV images/recordings

- (a) **Categories:** CCTV is installed, externally i.e., perimeter walls/fencing, and internally the main entrance as detailed in The Ballinglen Museum CCTV System Policy. These CCTV systems may record images of staff, artists, students, children and members of the public who visit the premises.
- (b) **Purposes:** Safety and security of staff, artists, students, children and visitors and to safeguard the Foundation's property and equipment.
- (c) **Location:** Cameras are located externally and (OMIT) internally as detailed in the The Ballinglen Museum CCTV System Policy. Recording equipment is located in The Ballinglen Museum of Art and signs are displayed advising that CCTV is in operation.

- (d) **Security:** Access to images/recordings is restricted to the Managing Director and Chairperson of the Board. Tapes, DVDs, hard disk recordings are retained for a maximum of 28 days, except if required for the investigation of an incident. Images/recordings may be viewed or made available to An Garda Síochána pursuant to section 8 Data Protection Acts 1988 and 2003. The computer on which such images/recordings are stored is password protected and encrypted and virus software is updated regularly.

Section 10: Links to other Policies

Company policies need to be consistent with one another. Relevant policies already in place or being developed or reviewed, shall be examined with reference to the data protection policy and any implications which it has for them shall be addressed.

Section 11: Processing in line with a data subject's rights

Data in the Company will be processed in line with the data subjects' rights. Data subjects have a right to:

- a) Know what personal data the Company is keeping on them.
- b) Request access to any data held about them by a data controller
- c) Prevent the processing of their data for direct-marketing purposes
- d) Ask to have inaccurate data amended
- e) Ask to have data erased once it is no longer necessary or is irrelevant.

Data processors

Where the Company outsources to a data processor off site, we are required to have a written Third-Party service agreement in place. In the event that such arrangement was to be entered into any such agreement to specify the conditions under which the data may be processed, the security conditions, attaching to the processing of data and that the data must be deleted or returned

upon completion or termination of the contract. **Dealing with Data Access Requests**

An individual has the right to be informed whether the Company holds data/information about them and to be given a description of the data together with details of the purposes for which their data is being kept. The individual's request must be responded to within a month.

No fee is charged except in where requests may be considered repetitive or excessive and manifestly unfounded.

No personal data can be supplied relating to another individual

Section 12: Providing information over the phone

Any employee dealing with telephone enquiries should be careful about disclosing any personal information held by the Foundation over the phone. In particular the employee should:

- Check the identity of the caller to ensure that information is only given to the person who is entitled to that information
- Suggest that the caller put their request in writing if the employee is not sure about the identity of the caller and in circumstances where the identity of the caller cannot be verified
- Refer the request to the Managing Director for assistance in difficult situations. No employee should feel forced into disclosing personal information.

Section 13: Implementation arrangements, roles and responsibilities

The Board of the Company is the data controller. The Managing Director implements the policy and ensures that staff who handle or have access to *Personal Data* are familiar with their data protection responsibilities.

The following personnel have responsibility for implementing the Data Protection Policy:

Board – Data Controller

Managing Director - Implementation of Policy

Company staff- Awareness of responsibilities, security and confidentiality of data

Section 14: Ratification and communication

This policy was ratified at a Board Meeting and agreed with Company staff.

This Policy is dated and signed and is noted in the minutes at the Board Meeting.

All staff will have a copy of the policy and training will be provided by the Company. Data Protection will be a regular item on the agenda at staff meetings and at Board Meetings. Employees, visiting artists, students and children's guardians will be informed of the Company Data Protection Policy and it will be available through a link on the Company website, noticeboard and is available on request.

Monitoring the implementation of the policy

The implementation of the policy shall be monitored by the Managing Director..

It will be discussed at staff meetings and at Board Meetings as necessary.

Reviewing and evaluating the policy

This policy will be reviewed and evaluated every two years although changing information or guidelines will necessitate an earlier review if required.

Signed: Ronald Rumford

For and on behalf of the Board

Date: 29th September 2021

SCHEDULE ONE

6.4 Appendix 4 of the Ballinglen Protection Policy for Children: The Ballinglen Arts Foundation & Museum's Data Protection Policy

In accordance with the General Data Protection Regulation (GDPR) regarding the processing of personal data, The Ballinglen Arts Foundation & Museum complies with the seven data protection principles regarding personal data:

- The data must be obtained and processed fairly
- The data should be accurate and up to date
- The data shall be kept only for one or more specified and lawful purposes
- The data shall not be used or disclosed on any matter incompatible with those purposes
- The data shall be adequate, relevant and not excessive in relation to that purpose
- The data must not be kept for longer than is necessary
- Appropriate security measures must be taken against unauthorised access to, or alteration, disclosure or destruction of the data and against their accidental loss or destruction

The Ballinglen Arts Foundation & Museum is obliged to record pertinent information arising out of individuals reporting allegations/suspicious of abuse made to The Ballinglen Arts Foundation & Museum staff by telephone, email, letter or in person. For this purpose, Ballinglen Arts Foundation & Museum acts as a data controller. That is, The Ballinglen Arts Foundation & Museum collects stores or processes data about living people on computer.

Policy for Obtaining and Processing Information Fairly

- The Ballinglen Arts Foundation & Museum Managing Director records information relating to allegations/suspicious of abuse made to The Ballinglen Arts Foundation & Museum staff by telephone, email, and letter or in person.
- This information must be fairly obtained; that is, the individual alleging or having suspicion of abuse is aware that the information they are disclosing is being recorded for the purpose of reporting to the appropriate authorities and that they have been informed of the name of the data controller or the person initially receiving that information.
- The Ballinglen Arts Foundation & Museum processes this information for the purpose of the legitimate interests pursued by a data controller except where the processing is unwarranted in any particular case by reason of prejudice to the fundamental rights and freedoms or legitimate interests of the data subject.

Policy for Data Retention and Disclosure

The Ballinglen Arts Foundation & Museum retains personal information relating to allegations/suspicious of abuse made to The Ballinglen Arts Foundation & Museum staff by telephone, email, letter or in person in order to be able to report such information to the appropriate

authorities as specified in Children First: National Guidance for the Protection and Welfare of Children (2017).

Policy for Data Security

The Ballinglen Arts Foundation & Museum undertakes appropriate security measures against unauthorised access to, or alteration, disclosure or destruction of, the data and against their accidental loss or destruction:

- Access to the IT server is restricted to a limited number of staff and external IT contractors
- Access to the data is limited to the Designated Liaison Person
- All IT systems which hold sensitive data are password-protected

- All sensitive paper data is first transferred to electronic form and then destroyed
- All office staff are aware of The Ballinglen Arts Foundation & Museum security procedures
- The Ballinglen Arts Foundation & Museum Managing Director is responsible for ensuring periodic reviews of security procedures

Data Scope (Accurate, Adequate, Relevant and not Excessive)

- The Ballinglen Arts Foundation & Museum ensures that only a minimum amount of personal information retained in order to satisfy our reporting obligations under Children First: National Guidance for the Protection and Welfare of Children (2017)
- The Ballinglen Arts Foundation & Museum ensures that when recording information for this purpose, only information pertinent to the allegation/suspicion of abuse is recorded.

Retention Period Policy

The Ballinglen Arts Foundation & Museum retains personal information relating to allegations/suspicions of abuse made to The Ballinglen Arts Foundation & Museum by telephone, email, letter or in person as well as responses from Tusla or An Garda Síochána for an indefinite period. This data is confidential and kept securely in electronic form. Only the Data Controller and Designated Liaison Person have access to this data. This policy will be reviewed in line with relevant legislative changes.

Giving Individuals Copies of their Personal Data

On making an access request, any individual about whom The Ballinglen Arts Foundation & Museum retains personal data is entitled to:

- A copy of the data
- Know the purpose for processing that data
- Know to whom that data has been forwarded (relevant Tusla staff or member of An Garda Síochána)
- Know the source of the data, unless it is contrary to public interest.
- In response to an access request The Ballinglen Arts Foundation & Museum will:

- Supply the information to the individual promptly, within 30 days of receiving the request
- Provide the information in a form that will be clear to the ordinary person

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- Provide the information in a form that will be clear to the ordinary person.

Children's Personal Data & Use of The Ballinglen Arts Foundation & Museum's website by Children

We welcome GDPR and The Irish Data Protection Act 2018's commitment to special protection for children's personal data. The Ballinglen Arts Foundation & Museum has always had special policies in place to safeguard the children that attend our events.

The Ballinglen Arts Foundation & Museum's website, where it refers to children's activities has been created in the understanding that it is the significant adults in the children's life that will be using it – in fact event descriptions for children's activities are written with the intention that adults can read the description out to the children to involve them in the process of deciding whether to take part. There are minimal opportunities for children to supply information to us via the site and we reasonably expect that any children 12 or under who are using the site are doing so with the express permission and supervision of adults. Therefore we judge the risk that we would be processing children's data via the site to be minimal. Any personal data that we request about the children who take part – including taking pictures and video – will always be gathered with the express consent of the parent or guardian.

Pictures and Videos of Children

The use of images plays an important role in many aspects of work with children and young people. Images in many formats can be used to record, document, demonstrate, promote and celebrate activities and experiences. Increasingly, accessible and diverse technology has meant that recording, sharing, disseminating and publicising images is more widespread than ever before.

The Ballinglen Arts Foundation & Museum has a clear policy in place for capturing images of children for documentation, archiving or promotional use:

- Images can only be captured with the written consent of the child's parent or guardian. Other adult relatives are unable to give consent for this.
- Withholding of consent must never affect or limit the child's experience of the activity they are taking part in.
- Even if a parent has given consent, if a child decides that they don't want their picture taken, their wishes must be respected.
- Parents taking pictures of their own child at an event is fine (assuming it's not disruptive to the event or infringing artists' copyright) but if they're taking pictures that include other children, they should be reminded of the importance of data protection and asked to refrain from taking pictures featuring other children. If that is unavoidable, they should be reminded that these images should not be shared online.
- Capture of images by The Ballinglen Arts Foundation & Museum's designated photographer should be done in a respectful way, with no or minimal impact on the focus or experience of the children.
- Care must be taken to avoid inadvertent discrimination or stereotyping of any child, particularly on the basis of disability, ethnicity or gender.
- Images should not include personal data such as name badges or school crests. Where they do appear, they should be removed or obscured using editing software.
- Accompanying photo credits should be mindful of giving information that could be used in a way that threatens the child's safety, such as their name, their school or specific address details.
- Images of children's artwork should only be taken with the permission of the child and any names should be cropped out.
- Images featuring unidentifiable aspects such as a child's hands, silhouette or the back of their head can be captured without permission, but it must be impossible to identify or recognise the child based on that photograph.