

Consent Procedure



**Broomgrove
Junior
School**

Approved by:	Governing Board	Date: 18/6/23
Last reviewed on:	June 2023	
Next review due by:	June 2024	

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1. Introduction

This procedure is intended to support the organisation when relying on consent as the legal basis for processing.

2. Quick Guide

- Only use consent as your legal basis where no other legal basis is appropriate
- Ensure that you have a specific consent form for each use of personal data
- Ensure all consent forms carry a hyperlink to your online privacy notice
- Ensure that your privacy notice references the use of personal data you are seeking consent for
- Retain the consent forms on the relevant file
- Carefully consider how often you need to refresh the consent – this will be based on the sensitivity of the personal data you are collecting and its proposed use
- If the processing is high risk ensure you have completed a Data Protection Impact Assessment
- Make sure it is as easy to withdraw consent as it is to give consent

3. Policy References

This procedure is a requirement of the Data Protection Policy.

4. Consent Procedure

We are encouraged to not rely on consent. The public sector is deemed to have sufficient statutory powers to satisfy other conditions available under Data Protection law to justify processing personal data without the need to rely on consent. However, if activities requiring the processing of personal data are identified as valid but a legal condition cannot be applied other than consent then the following should be in place:

- A Privacy Impact Assessment should be undertaken to approve the use of consent for the proposed processing (A Data Protection Impact Assessment in the event of 'high risk' processing)
- When obtaining the consent of the Data Subject, we will need to ensure that we have the capability to produce, on request, documented (and standalone) evidence that an individual has consented to the processing. Therefore consent must be recorded, and the evidence retained as a record for as long as the data obtained through consent is being processed.
- Consents will last for the duration of the Educational 'Key Stage' as a definition of a reasonable time period. Parents/ Guardians will be asked ahead of the end of a period to reconfirm their consent. If they do not respond then we must assume that they no longer wish to give consent. For early year settings, e.g. Nurseries it would last for the duration of the child's placement.

Key Stage 1 – Primary Reception, Year One & Year Two (Ages 5 – 7)

Key Stage 2 – Primary Years 3 – 6 (Ages 7 – 11)

Key Stage 3 – Secondary Years 7 – 9 (Ages 11 – 14)

Key Stage 4 – Secondary Years 10 & 11 (Ages 14 – 16)

We must ensure that where consent is being relied upon, there is a process in place to capture requests from Data Subjects to withdraw their consent and for us to no longer process their personal data for the purpose(s) explained on the relevant privacy notice which supported obtaining the consent.

- In such cases, expressions of wishes to withdraw consent must be directed as soon as possible to the employee responsible for the process.
- A decision must be made on the legal validity of continuing to process personal data obtained or created prior to receiving the withdrawal of consent.
- Where there is doubt about the Data Subject's intentions, their clarification should be sought over whether they wish to exercise other rights in respect of data processed under consent prior to receipt of the withdrawal.
- If a 'suppression list' is in operation, the Data Subject's withdrawal of consent must be managed in the relevant suppression list to ensure that future contact with the Data Subjects is in line with their wishes where consent is the condition for processing
- Where consent is relied upon as the condition for processing, its validity depends on satisfying all the criteria below:
 - ***It must be freely given.*** The Data Subject must have a genuine choice whether or not to provide their personal data. For example, if a service vital to their health or wellbeing will not be provided unless personal data is supplied, then there is a balance of power in favour of the Data Controller where the Data Subject is compelled to provide data. This cannot be said to be consent freely given
 - ***It must be well-informed.*** The Data Subject must be in receipt of all the necessary facts meeting their legal right to be informed about prospective processing of their personal data. This information should be provided to them via a Privacy Notice which is compliant with the law. The detail on the Notice will therefore ensure that the Data Subject has all the facts at their disposal to make a well-informed decision about whether they are comfortable providing personal data under the specified conditions.
 - ***It must be clearly expressed.*** The Data Subject's recorded consent must stand as a record evidencing that consent was given. This record must therefore include a form of identifiable written, electronically verifiable or recorded verbal record which can be dated. It must be associated with having read and understood the Privacy Notice and must be correctly linked to the correct version of the Privacy Notices current at the time of initially providing consent and when consent was refreshed. The most efficient way of doing so is to combine a Consent Form with a Privacy Notice and retain as records for the duration of the processing activity.

- Where consent is sought from children over the age of 12, you must ensure that the privacy notice is appropriate for the age of maturity and capacity of the Data Subject, and that they have a chance to discuss concerns with you prior to making their decision. Where the child is under 12, processes for obtaining parental consent/ authorisation will need to be in place

Withdrawal of Consent

In the event that consent is withdrawn, you should take the following steps where relevant:

- Inform the class teacher
- Update your pupil MIS (e.g. SIMs)
- Update and print the suppression list in office
- Review school website
- Inform parent of the above steps

An example procedure for the withdrawal of consent is available at Appendix A

5. Advice and Support

If you have any issues over the clarity of these procedures, how they should be applied in practice, require advice about exemptions from the requirements or have any suggestions for amendments, please contact the school office.

6. Breach Statement

A breach of this procedure is a breach of Information Policy. Breaches will be investigated and may result in disciplinary action. Serious breaches of Policy may be considered gross misconduct and result in dismissal without notice, or legal action being taken against you.

Appendix A: Procedure for refusal or withdrawal of consent for use of photographs

1. When the parent has refused consent for use of photographs, this must be noted on SIMs / Integris / Pupil Asset etc
2. A note will be made of the refusal (and type of refusal – e.g. for use within school, on displays etc; use on school website or local media; use on social media) on a list that will be kept in a folder in the school office
3. A list will be provided to each relevant class teacher of the pupils who must not be photographed
4. If a photographer attends school, the class teacher must refer to this list to ensure relevant pupils are not included in photos
5. When uploading photographs to the website by the school business manager (or relevant officer) they must carefully check the photos to ensure they do not include children on the list
6. If a photographer is to attend, the office may phone any parents of children on the refusal list to inform them of the visit and give them the option of including their child in the photo. If they would like their child included, this should be confirmed by email to the school prior to photographs being taken. [This is optional – some schools take this action routinely if there are only 2 or 3 children on the list]

Withdrawal of consent

If a parent **withdraws** consent:

- a. Each list above must be updated immediately, and old lists securely destroyed.
- b. Give updated list to relevant class teachers
- c. It should be explained that every effort will be made to delete the images already taken, but to note that where consent has been provided for the publication of the images, the school may not be able to locate and delete the image on request, although reasonable steps will be taken to do so. See the Privacy Notice for School Photographs for details
- d. Inform parents of action taken
- e. Use the following list to ensure photos are removed (this is not an exhaustive list and should be added to if necessary)

Location	Removed by	Date
Website – Banners, Archive, Published Newsletters		
School Displays		

Social Media		
Prospectus		
Added to Suppression List		

Note: Some images may be kept despite consent being withdrawn i.e. photos on SIMS/RM Integris etc or on ID passes, as the school has a statutory duty to hold these.