

## IMAGE USE AND AUDIO RECORDING POLICY

### Policy scope and objectives

The policy sets out the obligations of all staff, parents/carers, students and visitors with regard to images and audio recordings taken of students on EKC Group's premises or in relation to EKC Group's services and activities.

It seeks to ensure that images and audio recordings:

- are captured, retained and used legally in accordance with data protection legislation;
- are used in such a way that meets the Group's statutory safeguarding obligations;
- are used in such a way that does not bring EKC Group into disrepute.

The policy must be read in conjunction with other relevant policies including (but not limited to) safeguarding and child protection, anti-bullying, data protection, and IT acceptable use. The policy excludes EKC Group's Nurseries which have their own policy.

### 1. Definitions

- 'Staff' means all staff, the governing body, teachers, support staff, external contractors, volunteers and other individuals who work for or provide services on behalf of EKC Group.
- 'Visitor' means any legitimate, authorised visitor to EKC Group's premises e.g. guest speakers.
- 'Student' means any enrolled or prospective student.
- 'Image' includes photographs and videos of any person which identifies them as a data subject under the terms of applicable data protection legislation. It does not include CCTV images which are covered under EKC Group's CCTV Procedure.
- 'Audio recording' includes an audio recording of any person which identifies them as a data subject under the terms of applicable data protection legislation. It may include recordings made via a voice recorder, mobile 'phone or other recording device.

### 2. Legal context

#### 2.1 Data Protection

- Images and audio recordings which identify a 'living individual' (otherwise known as a data subject) are classed as 'personal data' under the terms of data protection legislation.
- All images and audio recordings taken by EKC Group will therefore be processed in accordance with the General Data Protection Regulation and the Data Protection Act 2018. This means that images and audio recordings will be processed:
  - fairly, lawfully and in a transparent manner;

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**Stage of Approval:** Approved

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- for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes;
- adequate, relevant and limited to what is necessary;
- accurately and, where necessary, kept up to date;
- for no longer than is necessary;
- in a manner that ensures appropriate security.

## 2.2 Safeguarding

EKC Group has a statutory and moral duty of care to safeguard its students under a range of legislation and guidance which includes, but is not limited to:

- The Children Act 1989 (as amended).
- The Safeguarding Vulnerable Groups Act 2006.
- Working Together to Safeguard Children 2018.
- Keeping Children Safe in Education 2019.

Inadvertent disclosure and publishing of images and audio recordings may compromise the safeguarding of a student and adversely impact their safety and welfare. It is therefore vital that staff follow the protocols in this policy to ensure that students are protected.

Similarly, staff should be aware of the measures that they need to take to safeguard and protect themselves and not leave themselves open to allegations of inappropriate use of images and audio recordings.

## 3. Images and audio recordings generated by EKC Group

### 3.1 Responsibilities

- All staff are responsible for complying with this policy.
- Designated Safeguarding Leads and the Senior Management team for each Business Unit are responsible for ensuring the acceptable, safe use and storage of all image and audio recording technology within their respective business unit. They are also responsible for ensuring that staff have adequate resources and are not using their own, personal devices for capturing images and audio recordings.
- Marketing staff are responsible for accurately administering images within the Group's image asset bank, ensuring that appropriate consent is in place and deleting them when the retention period has expired or when a data subject has exercised their right to withdraw consent.

### 3.2 Procedures for student consent

- Students will complete a form once a year at enrolment which invites them to opt in/out of their image being used for 'low risk' activities such as internal displays and social media channels advertising the curriculum. In addition to the opt in/opt out form, prior to taking any images for such activities, staff must **always** verbally ask students, every time images

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are taken, if they are happy for their image to be captured or a recording made of them. They should remind students of the safeguarding implications of having their image taken and circulated on channels such as social media. Students then have the choice to opt out if they wish to do so.

- Students will always be asked to opt in before images/audio recordings are taken, used or published for 'higher risk' activities such as large-scale advertising e.g. banners, bus campaigns, for EKC Group's website, prospectuses etc.
- EKC Group will ensure that privacy notices for the use of images are published on the Group's website.
- Students who have capacity and who are over the age of 16 may opt in or opt out of having their image captured.
- Where a student is under the age of 16 or the parent/carer has legal responsibility for acting on their child's behalf e.g. where the student does not have capacity, consent will be sought from the parent/carer.
- To ensure accuracy and ease of administration, students opt in/opt details will be entered on ProSolution along with the details from the enrolment form. The Group's Marketing function will retain completed opt in/opt out forms for higher risk activities and record the outcomes on Asset Bank In general, images will not be retained or used for longer than 10 years.
- Should consent be withdrawn by the student or the parent/carer at any time, then all relevant images will be removed and disposed of (unless the image has already been published and disseminated in printed form) and the record will be updated accordingly.

### **3.3 Procedures for the safety and confidentiality of images and audio recordings**

- All images and audio recordings taken and processed by or on behalf of EKC Group will be captured using equipment and devices provided by the Group. Staff must not capture, store or use images or audio recordings on their own devices.
- Images and audio recordings must be downloaded to a secure repository e.g. approved Cloud storage area or digital asset management system under the control of Marketing staff as soon as possible after capture. Data must not be stored on the image or recording device or retained on USB sticks.
- Staff will receive information regarding the safe and appropriate use of images as part of their safeguarding training and responsibilities.
- Images and audio recordings will be kept in accordance with time periods specified in the records retention schedule after which time they will be deleted from all data repositories.
- Should permission be given to take any images off site then all relevant details will be recorded, for example who, what, when and why and data will be kept securely (e.g. with appropriate encryption).
- Any apps, websites or third-party companies used to share, host or access children's images will be risk assessed prior to use and submitted to the Designated Safeguarding Lead for authorisation.

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- The Group will not include any personal addresses, emails, telephone numbers, fax numbers on video, on the website, in a prospectus or in other printed publications.
- Staff who teach online via Teams, will advise students that lessons and sessions will be recorded.
- Staff who use recording cameras in classrooms will advise students that the session is being recorded.

### **3.5 Safe practice when taking images and audio recordings**

- Careful consideration must be given before involving very young or vulnerable children when taking photos or recordings, who may be unable to question why or how activities are taking place.
- A child or young person's right not to be photographed is to be respected. Images must not be taken of any child or young person against their wishes.
- Photography is not permitted in sensitive areas such as changing room, toilets, swimming areas etc

## **4. Use of Images and audio recordings by others**

### **4.1 Parents/Carers**

- Parents/carers are permitted to take photographs or video footage of events for private/personal use only. Staff should always remind parents during events that images can only be taken for personal use and any images including other students should not be posted on their social media accounts.
- Parents/carers who are using photographic equipment must be mindful of the privacy of others (including health and safety concerns) when making and taking images.
- Audio recording is permitted to support parents/carers in certain circumstances e.g. to provide a means of reasonable adjustment. Consent and agreement to the conditions of use will be sought from all parties involved in the recording. Recordings will be made on devices owned by EKC Group and will remain the property of the Group.
- The Group reserves the right to not permit parents/carers to take photographs and make videos.
- Parents/carers are only permitted to take images within designated areas of the Group's premises. Photography is not permitted in sensitive areas such as changing rooms, toilets etc.
- The right to withdraw consent will be maintained and any photography or filming on site will be open to scrutiny at any time.
- Parents may contact the Designated Safeguarding Lead to discuss any concerns regarding the use of images.
- Photos and videos taken by the Group and shared with parents should not be shared elsewhere (e.g. posted on social media sites). To do so may breach intellectual property rights, data protection legislation and importantly may place members of the community

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at risk of harm.

#### **4.2 Students**

- Colleges and Business Units are responsible for making students aware of the appropriate use of their own image capture and audio recording devices and for clarifying where devices can and cannot be used.
- Students may use their own devices to capture evidence to support their learning and assessment e.g. for their curriculum portfolio and as a means of reasonable adjustment to support a disability. In all such cases, students must be mindful of the privacy of others and seek permission where other students' images or voices are captured. Students must not share or disclose the images or recordings to third parties or publish or distribute them on external sites such as social media.
- Students who use their own image capture and audio recording devices inappropriately e.g. to deliberately breach another person's confidentiality or to harass, bully or intimidate, may be subject to EKC Group's Student Disciplinary Procedure.
- Images and audio recordings taken by students who are using EKC Group devices (e.g. digital media students making a video as part of their curriculum or social action), will be controlled by the Business Unit and will be checked carefully before onward sharing or publication. The Business Unit must ensure in all such cases that consent forms have been completed if the images or audio recordings include other data subjects.

#### **4.3 Use of images of students by the Media**

- Where a press photographer is to be invited to photograph or video an event, every effort will be made to ensure that the newspaper's (or other relevant media) requirements can be met.
- A written agreement will be sought between the student or their parent and the press which will request that a pre-agreed and accepted amount of personal information (e.g. first names only) will be published along with images and videos.
- The identity of any press representative will be verified and access will only be permitted where the event is planned, and where press are to be specifically invited to attend. No authorisation will be given to unscheduled visits by the press under any circumstances.
- Every effort will be made to ensure the press abide by any specific guidelines should they be requested. No responsibility or liability can be claimed for situations beyond the relevant Business Unit's reasonable control, and where the Business Unit is to be considered to have acted in good faith.

#### **4.4 Use of Professional Photographers**

- Professional photographers who are engaged to record any events will be prepared to work in accordance with pre-defined safeguarding protocols.
- Photographers will sign an agreement which ensures compliance with the Data Protection Act and that images will only be used for a specific purpose, subject to student/parental consent.

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- Photographers will not have unsupervised access to children and young people.

#### **4.5 Capturing images in public places**

- The purpose that the image is being taken for should firstly be defined. If the images are being used for commercial advertising/marketing, the data subject(s) should sign an image opt in/opt out form (or the parent/guardian should sign in the case of a child). They should also have a privacy notice telling them what the image will be used for, how long it will be retained etc. Photos taken for journalistic or artistic purposes are not considered personal data under the Data Protection Act. The Act contains an exemption (section 32) which applies where you are "processing" personal data for journalistic or artistic purposes; you are doing so with a view to publication and it would be incompatible with your journalistic or artistic purposes to be required to comply with the Act (for example, it would be incompatible if you had to put down your camera in order to ask consent of everyone captured in a street scene).
- When photographing a group of people, it's courteous to ask their permission first and tell them what the photos will be used for. If people do not want their image captured, don't take photos.
- Where possible, try to take images which don't identify data subjects e.g. backs of heads or if possible, blur out faces.
- Try to make attendees aware through posters or other media that images will be taken throughout the event and what the images will be used for. Attendees should be advised that if they do not want to be photographed, they should let the photographers know
- Check where the image is taken is actually a public place e.g. a street, pavement etc. If photos are taken on private property, the property owner's consent should be obtained.

The Institute of Photography has published some useful guidance on this subject which can be found here. <https://www.institute-of-photography.com/your-rights-as-a-photographer/>

#### **Appendices**

- Student privacy notice
- Student opt in/out form
- Audio recording consent form
- Letter to parents – recording events for their own personal use
- Photography/video confidentiality notice

#### **Associated policies and procedures**

- Safeguarding and Preventing Terrorism Radicalisation and Extremism policy
- Data Protection policy
- Staff Code of Conduct
- CCTV procedure

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- IT Acceptable Use policy
- Online Safety Procedure
- Student Disciplinary policy and procedure
- Anti-harassment policy and procedure (staff and student)
- Student code of conduct (expected behaviours)