

Legitimate Interests Assessment under the General Data Protection Regulation (GDPR) for photography and filming of Sheffield Music Hub ensembles and posting of the images to the internet.

Asset Reference	To be completed
Process Name / Description	Undertaking and distributing recorded media, for example – videoing concerts and uploading to Music Hub YouTube channel (Hubfest), photographing workshops and using photos on publicity flyers and uploading to Flickr , photographing residential events and posting to Twitter , Facebook , Music Hub website
Data Subject(s)	Students who sign up to Music Hub activities.
Nature of personal data processed	Digital recorded media (including film, photos, audio.)
Special category, criminal offence or children's data?	Children's data
Are the data assets recorded in the information asset register?	Pending
Process owner	Sheffield City Council
Assessment Owner	Sheffield Music Hub
Assessment Start date	10/05/2019
Decision Date	20/06/2019

1) Purpose test: identify the legitimate interest(s).		Guidance
Why do you want to process the data – what are you trying to achieve?	<p>Sheffield Music Hub wants to be able to:</p> <ul style="list-style-type: none"> • Visually document and record activities • Record progress and achievements • Document special events • Promote Music Hub activities • Obtain evidence for funders and further applications • Evaluation purposes (both students and staff) • Expectation from parent/carers to be able to 	<p>The first stage is to identify to a Legitimate Interest – what is the purpose for processing the personal data?</p> <p>If the processing operation is required to achieve a lawful business objective, then it is likely to be legitimate for the purposes of this assessment. The focus when answering this question should be on your business objectives not the interests of your customers.</p> <p>While you may only need to identify one Legitimate Interest for the purposes of an LIA – the interest that</p>

	<p>take/view recorded media of their child</p> <ul style="list-style-type: none"> • Keep parent/carers informed of child's activities when away from home on events/trips • Celebrate diversity of members • Celebrate diversity of musical genre 	<p>you are seeking to rely on – it may be useful to list all apparent interests in the processing, those of you as the Controller, as well as those of any Third Party who are likely to have a Legitimate Interest.</p> <p>A Legitimate Interest could be trivial or business critical, however, the organisation needs to be able to clearly explain what it is. Some purposes will be compelling and lend greater weight to the positive side of the balance, while others may be ancillary and may have less weight in a balancing test. Consider whether your interests relate to a fundamental right, a public interest or another type of interest.</p>
<p>Who benefits from the processing? In what way?</p>	<ul style="list-style-type: none"> • Music Hub/Children and Young People/ Society. Funding from Arts Council England (ACE) required for Music Hub to operate (no funding received from Sheffield City Council) – need to evidence that we are achieving funding criteria otherwise Music Hub could have the existing funding reviewed and potentially reduced. As the Music Hub is spending public funds, from the Department for Education, this needs to be transparent and accountable. • Showcase musical achievements both via the Music Hub and the media and being awarded additional grants and funding is a 'good news' story for Sheffield and raises the city's profile nationally. • Promotion of activities leads to increase in membership which increases funds for Music Hub which in turn can be used for projects that 	<p>What are the benefits to the individual or to society?</p> <p>Focus your response on the customer and any potential benefits of this processing.</p> <p>If the processing is to the benefit of the individual, then it is more likely that Legitimate Interests can be relied on, as the individual's interests will be aligned with those of the Controller. Where the processing is more closely aligned with the interests of the Controller or a Third Party than with those of the individual, it is less likely that the interests will be balanced, and greater emphasis needs to be placed on the context of the processing and relationship with the individual.</p>

benefit more children and Young People (can't carry over profit into next financial year)

- Society benefits from children and young people being involved in activities which 'keeps them off the streets' and engages them with the local community – concerts, etc.
- Due to not being able to evidence music making, the Music Hub has not been recognised for the work it is undertaking in the city and has been shortlisted, but not won awards due to this factor
- **Parents/carers.** want to record performance of the children for personal reasons
- **Children and Young People.** Need/want documentation of their progress. Can use as evidence for national awards (Duke of Edinburgh/ArtsAward/Guides/Scouts) and individual grants/sponsorships/funding
- **Partners.** Both present and future, able to showcase what they could achieve and pave the way to have challenging conversations in regards to their existing standards.
- When we receive funding from partners for projects, workshops etc. one of their requirements is usually to share the outcome publicly and recognise the partners contribution. Not being able to do could result in collaborations not taking place
- This change in policy could lead the way as an example to partners on what their responsibilities are in regards to obtaining recorded media for their events
- **Schools.** Raising aspirations for high quality

	<p>music making, show what students are capable of</p> <ul style="list-style-type: none"> • Other Music Hubs. Sheffield Music Hub is recognised by Arts Council England as one of the most progressive in the country, therefore bringing this scheme into action can act as a blueprint for other Music Hubs to progress their photo permissions process 	
<p>Are there any wider public benefits to the processing?</p>	<ul style="list-style-type: none"> • Publicising activities, events and concerts can increase audience attendance and involvement which in turn increases community spirit, involvement and happiness • If the Music Hub ceased to receive funding then there would be a massive reduction of music making in the city which could have an impact on social emotional wellbeing • Music Hub students are role models and raise aspirations of the city 	<p>See above</p>
<p>How important are those benefits?</p>	<ul style="list-style-type: none"> • Without the Music Hub, society would suffer as a reduction in music in schools = a reduction of music across the city therefore emotional wellbeing of children and young people will decline (as studies show a strong correlation between music and mental wellbeing) • Music is an integral part of school life, not all children are academic but can achieve in the arts and improve their confidence and self-belief • Raise profile of the Music Hub to wider community who wouldn't normally access the Music Hub • Audience can feel part of the musical community and improve emotional wellbeing by 	<p>If the processing adds value for the individual this may strengthen the case for Legitimate Interest. Just because the processing is central to what the organisation does, does not make it legitimate. It is the reason for the processing balanced against the potential impact on an individual's rights that is key. It is important to consider whose Legitimate Interests are being relied on. Understanding this will help inform the context of the processing. In combination with the reason the Personal Data is being processed, this information will determine the weight of the Legitimate Interest that needs to be balanced.</p>

	<p>being involved in events</p> <ul style="list-style-type: none"> • There is an expectation from parents/carers that the Music Hub will provide a service to their child and this will be available either in or out of school. The absence of a Music Hub would cause a massive educational gap in the city – disadvantaging the citizens • Wide reaching audience – not all family members live locally/are able to travel so recorded media would provide the opportunity to access performances (global citizens) • Music is for everyone – provide an alternative to the negative stories in the press in regards to music education decline 	
<p>What would the impact be if you couldn't go ahead?</p>	<ul style="list-style-type: none"> • Risk of funding not being renewed. • Reduction in member sign up if no publicity/events • Risk to Music Hub reputation • Competitors, who are able to publicise, have members moving over to them • Loss of legacy payments, sponsorships, donations etc. • National awards not won which in turn can lead additional funding streams being unavailable 	<p>Would there be a negative organisational or commercial impact on the data controller if this processing were not to take place?</p>
<p>Would your use of the data be unethical or unlawful in any way?</p>	<ul style="list-style-type: none"> • When signing up to ensembles, there is an expectation that this will include performances in the public domain, so members/parents/carers should expect that recorded media could take place by the Music Hub or audience members (the general public) • There is an option not to be recorded if there is a special case (Children that are Looked After 	<p>If processing would undermine or frustrate the ability to exercise those rights in future that might well affect the balance.</p> <p>Consider here whether the processing could lead to discrimination, financial loss, reputational damage, loss of confidentiality or professional secrecy. Or any other economic or social disadvantage. (Please note this is not an exhaustive list). Does the processing prevent</p>

	<p>(CLA), court case, family circumstances, etc.) and these members will be flagged in our records.</p> <ul style="list-style-type: none"> • If members didn't want to be recorded (with no legal reasons) then it would be discussed with the parent/carers and if it was decided they still didn't want to be recorded then they may not be able to perform (this service is not included in the price they pay to join a music group) • Need to create a flow chat of questions to ask parent/carer when opting out so consistent amongst staff members who ask 	<p>data subjects exercising control over their personal data? (See GDPR Recital 75).</p>
<p>Have you considered any Tribunal judgements/case law in identifying 'legitimate interests'?</p>	<ul style="list-style-type: none"> • We have referred to guidance from the Information Commissioner's Office. 	
<p>2) Necessity test: is the processing necessary for that purpose?</p>		
<p>Does this processing actually help to further that interest?</p>	<ul style="list-style-type: none"> • Yes – increase in publicity could increase member numbers and fee income and potentially help to secure additional funding • Increase in income/funding means the Music Hub can lead on additional projects and engage with more children and young people across the city • The Music Hub mission statement is 'We believe that every child, regardless of race; gender; where they live; their levels of musical talent; parental income; whether they have special educational needs or disabilities; and whether they are looked-after children; deserve the very best music education.' And to achieve this we need to reach all children and young people and use the mediums they do (social 	

<p>Is it a reasonable way to go about it?</p>	<p>media/websites etc.)</p> <ul style="list-style-type: none"> • Parents/carers expect to be able to record events and we have received complaints/queries in regards to preventing this • Need to include a statement on all online forms (where members sign up to activities) and a link to the revised privacy policy • Existing members would receive an email detailing the change and a letter would be given out at the ensemble rehearsals 	<p>If the individual would not expect the processing to take place, this could in particular override the Controller's interests. Consider the expectations of the individual, would this processing activity be within their reasonable expectations? Have they been informed? Consider including here any evidence you may have of their expectations that this processing would occur?</p>
<p>Is there another less intrusive way to achieve the same result?</p>	<ul style="list-style-type: none"> • Only alternative is to record sound but this is not as satisfactory for the audience (parents/carers) and funders. Need to convey the emotional connection and this needs visual recordings • Unrealistic to obtain signed consent forms from every parent/carer due to remote visits and volume of members/participants • If parents/carers have to opt in to different media types then this becomes a mammoth task of cross checking all members to permission record held. It would be highly unlikely to have a full group who tick yes to every media use so no recordings would be able to take place • Relatability – audience members (both adults and children) can be inspired to become (or for their children to become) musicians 	<ul style="list-style-type: none"> • If there isn't an alternative, then clearly the processing is necessary; or • If there is an alternative but it would require disproportionate effort, then the processing may still be necessary; or • If there are multiple ways of achieving the objective, then a Data Protection Impact Assessment should have identified the least intrusive means of processing the data which would be necessary.

3) Balancing test: do the individual's interests override the legitimate interest?		
<p>What is the nature of your relationship with the individual? Is it pre-existing and have you used their data previously?</p>	<ul style="list-style-type: none"> • Large numbers of our members stay with us over a long period of time (some Y1 – Y13), participating in weekly lessons/groups • Multiple family members use our services meaning a relationship can span decades for some of members/parents/carers • Regular emails, personal interactions and social media with various Music Hub staff members results in a personal relationship forming between all involved – all invested in the child's musical journey 	<p>Identify the relationship and the nature of the relationship (Ongoing / Periodic / One-off / No relationship, or relationship has effectively ceased.)</p> <p>Where there is an ongoing relationship, or indeed a more formal relationship, there may well be a greater expectation on the part of the individual that their information will be processed by the organisation. The opposite is also possible, but it does depend on the purpose of processing.</p>
<p>How has the data been obtained? If supplied from a third party what did they tell the individual about reuse?</p>	<ul style="list-style-type: none"> • Majority of recorded media obtained directly by the Music Hub, including its partners. If an outside organisation requests to obtain recorded media they obtain consent directly for their use • Need to explain to parent/carers that once recorded media is on the internet it can be accessed by all and we have no control over its usage 	<p>Consider whether personal information has been collected:</p> <ul style="list-style-type: none"> • Directly • Indirectly • A mix of both <p>If the information was obtained directly from the individual then you should take due consideration of the Privacy Notice, the relationship with the individual and their expectations of use. If the data was collected directly and these factors are positive, then it may tip the balance in favour of the processing operation. Where Personal Data is not collected directly, there may need to be a more compelling Legitimate Interest to overcome this. It will also depend on the context of the processing and if the organisation has a two-way relationship with the individual.</p>
<p>Do you have the means and processes to keep the information up to date?</p>	<ul style="list-style-type: none"> • Following sign-up where we will identify any reasons that may affect a child's public appearance, we use letters to parents about upcoming events to remind them about our filming policy and to get in touch with us. Annually we undertake a check on each 	

	<p>person's membership details which also check for changes that may impact on public performance.</p>	
<p>Is any of the data particularly sensitive or private?</p>	<ul style="list-style-type: none"> The data is the recorded media of children and young people undertaking musical education and performing 	<p>What types of personal data are being processed e.g. contact data, financial details etc.? Is it data relating to a child? If processing Special Categories of Personal Data, an Article 9 condition must be identified in addition to a lawful basis under Article 6.</p>
<p>Would people expect you to use their data in this way?</p>	<ul style="list-style-type: none"> This is expected and notified during sign up to activities (if existing member then an email and letter issued) Information letters to parent/carers about events detail how recorded media will take place Announcement at beginning of event that recordings will take place Plenty of advance notice given so if child not wanting to be recorded then able to discuss this with parent/carer before the event and not take part if an issue (unless legal reasons) Events/concerts are not compulsory and are not part of the paid membership so no financial loss to the parent/carer if the child doesn't participate 	<p>If the individual would not expect the processing to take place, this could in particular override the Controller's interests. Consider the expectations of the individual, would this processing activity be within their reasonable expectations? Have they been informed? Consider including here any evidence you may have of their expectations that this processing would occur?</p> <p>The stronger the expectation, the greater the chances that Legitimate Interests can be relied on.</p>
<p>Are you happy to explain it to them?</p>	<ul style="list-style-type: none"> Online forms will contain a statement explaining use and link to updated privacy policy Emails and letters to existing members Information letters for events will contain details 	<p>Remember that the more unusual, unexpected or intrusive the processing, the greater the importance of making the individual aware of the processing. Particularly where Legitimate Interests are to be relied on</p>
<p>Are some people likely to object or find it intrusive?</p>	<ul style="list-style-type: none"> Recorded media will be obtained in a public setting or at ensemble rehearsals If an unusual request is made to obtain recorded media (such as a 1:1 lesson, media 	<p>Processing should not be unduly intrusive - intrusion into the private life of an individual may be justified based on the nature of the relationship or special circumstances. However, the greater the intrusion,</p>

	<p>etc.) we would obtain special permission for this by way of an online form for this single use</p>	<p>perceived or otherwise, the more overwhelming the Legitimate Interest should be and the more the rights of the individual must be considered within the balance. Consider here the way the data is processed (e.g. large scale, data mining, profiling, disclosure to a large number of people or publication).</p>
<p>What is the possible impact on the individual?</p>	<p>Positive</p> <ul style="list-style-type: none"> • Promotion of the child’s activity • Recognise achievements of children and young people • Record of progress • Record of performances for families to keep • As a result of being seen in publicity, this could lead to further opportunities for performers • Evidence for educational purposes (GCSE/A-Level/Degree) • Can be used for funding applications as an individual or group • Use in competitions to win awards/funding/profile. <p>Negative</p> <ul style="list-style-type: none"> • Some members may not want their activities to be publicised (may lead to bullying at school for example) – in this instance they could not take part, be blurred out or sit out of shot (at the back) 	<p>Remember that the more unusual, unexpected or intrusive the processing, the greater the importance of making the individual aware of the processing. Particularly where Legitimate Interests are to be relied on.</p>
<p>How big an impact might it have on them?</p>	<ul style="list-style-type: none"> • Proud of achievements • Confidence increased • Make friends – social skills • Teambuilding experience • Highlight progress – can’t see themselves play until they watch the recording 	

Are you processing children's data?	Yes	
Are any of the individuals vulnerable in any other way?	<ul style="list-style-type: none"> • Yes – potential Looked after children, court orders preventing filming of members. Children who are affected must be notified to the Music Hub when signing up. • Contact existing members who can't be filmed to see if still in same situation and update record. 	
Can you adopt any safeguards and technical measures to minimise the impact?	<ul style="list-style-type: none"> • We will never supply the full name of the child/children along with the image/ recording. • We will only use images of children in suitable dress. • All Music Hub photographers will be required to have an Enhanced DBS. • A photographer or film crew will never work unsupervised alongside children and young people. • Storage by external photographers – need to refer to Music Hub safeguarding document. • Announcement at the start of concerts that filming can take place and to make parent/carers aware of this. If filming is not permitted to take place this will be announced and specified at the start of an event (e.g. a certain group can't be filmed or the whole concert) 	Safeguards include a range of compensating controls or measures which may be put in place to protect the individual, or to reduce any risks or potentially negative impacts of processing.
Can you offer an opt-out?	<ul style="list-style-type: none"> • Yes but exercise of opt-out potentially means that a child won't be able to take part in public events that will be recorded, unless there is a genuine reason approved by Music Hub Manager 	<ul style="list-style-type: none"> • Yes (cover how you do this) • No • Partly <p>Giving the individual increased control or elements of control may help a Controller rely on Legitimate Interests where otherwise they could not. If individual control is not possible or not appropriate, explain why.</p>

Decision	
Outcome Date	20 June 2019
Outcome	To proceed with the change to the lawful basis for recording children based on the legitimate interests of the Music Hub, whilst ensuring that the interests and freedoms of members are not harmed.
How was the outcome decided	Head of Music Education and Caldicott Guardian accepted proposal with revised privacy notice and letter of notification to parents.
Further Action	Publish LIA, revised privacy notice on website; contact parents/carers. Announcements to be made at events when filming can't take place and a register of students who are not able to be filmed to be created and monitored
Next Review date	30/11/2019 or sooner if required.
Agreed by	Ian Naylor, Head of Music Education, Dominic Sleath, Caldicott Guardian, Information Management Team