

Number: WG17995



Llywodraeth Cymru
Welsh Government

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Consultation – summary of responses

Protection of learners' biometric information in schools and further education institutions

Date of issue: April 2013



Protection of learners' biometric information in schools and further education institutions

Audience	Governing bodies, headteachers, school staff and heads of and staff at further education institutions.
Overview	This document details the responses received to a consultation on guidance on the protection of biometric information of children in schools and further education institutions.
Action required	None – for information only.
Further information	Enquiries about this document should be directed to: School Information and Improvement Branch Schools Management and Effectiveness Division Department for Education and Skills Welsh Government Cathays Park Cardiff CF10 3NQ e-mail: IMS@wales.gsi.gov.uk
Additional copies	This document can be accessed from the Welsh Government's website at www.wales.gov.uk/consultations

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Introduction

The 'Protection of Biometric information of children in schools and further education institutions – guidance' consultation was launched on 15th May 2012 and was open for responses until 7th August 2012. A total of 4 questions were set out in a proforma-style document within the consultation for responses provided by an online form for ease of email return. A children and young people friendly version of the consultation was provided alongside the consultation and during May 2012 bilingual consultation was carried out with learners from Mid and North Wales.

There was a common theme of general agreement that the proposed guidance in the consultation was helpful in clarifying the legal responsibilities for schools, although requests for additional information and amendments were provided by some respondents. All responses have been considered fully in creating the final guidance. Below is the summary of responses, organised into themes.

Next steps

The Welsh Government is currently updating the final guidance and will have due regard to the responses provided by consultees in drafting this final guidance.

The Welsh Government will publish the final version of the guidance document in Spring 2013. The Welsh Government will monitor the impact of the introduction of the new duties on schools and further education institutions ('FEIs') and review the guidance in future years.

Responses

In total, 9 responses were received to this consultation. Although the consultation received few responses, the consultation was widely disseminated to stakeholders. It is possible that few responses were received as recipients believed the guidance to be clear with little further to add/amend. This is substantiated to some extent as the general consensus of those who did respond was that the guidance was sufficiently clear with little further to add/amend. Of the responses, only 7 used the proforma questions found in the consultation. Rather than analysing the responses by question therefore, the responses are considered by two themes; further information to be added, and amendments to the proposed guidance.

In addition, 264 children responded to the children and young people friendly consultation. As this consultation differed from the adult consultation the responses are analysed separately.

Adult consultation

There was a common theme of general agreement that the proposed guidance in the consultation was helpful in clarifying the legal responsibilities for schools with only one respondent disagreeing. Some respondents requested further information and some also suggested amendments. There were also responses which fell outside of the remit of this consultation, passing comment on the legislation rather than the guidance. These responses are not within the scope of this consultation and therefore are not considered below.

Further information

Three respondents requested further guidance on implementation. There were particular concerns that the timeframe was not adequate to provide alternative access if consent was not forthcoming from parents of learners in

schools where biometric data is already used. It was requested that where biometric data is already used, failure to respond could be taken as consent. The Protection of Freedoms Act 2012 does not provide for this request and requires active consent from parents in writing. The guidance will be amended to highlight the date that the new duties will come into force and to confirm that there will be no circumstances in which a school or FEI can lawfully process a learner's biometric data without having received the necessary consent. Schools and FEIS will be advised to plan to make arrangements to notify parents, obtain consent and consider alternatives in advance of this.

Further information was requested on the role of local authorities by one respondent. An additional FAQ will be added to the guidance to address this query.

Further guidance was also requested by one respondent on situations where a learner requests that their parents are not contacted, particularly in the case of learners aged 16 and above. An additional FAQ will be added to the guidance to address this query.

One respondent requested that the guidance note that schools/FEIs must satisfy themselves of the identity of the person giving consent. This will be added to the guidance.

A further addition of information about the need to comply with the Data Protection Act for schools and FEIs considering introducing a biometric system was requested by one respondent. This will be added to the guidance.

Amendments

One respondent requested the definition of "processing" be amended to more fully reflect the definition of processing in section 1 (1) of the Data Protection Act. The guidance will be amended to include the full definition of processing as in the Data Protection Act.

Two respondents raised concerns regarding the answer to the FAQ “Is parental notification and consent required for the use of photographs and CCTV in schools?” this answer will be amended to prevent ambiguity.

Two respondents wished to see amendments to the template notification and consent form. The template notification and consent form can be used as a template and amended by schools and FEIs to be suited to their own systems. This has been clarified in the guidance.

Two respondents noted that ICO guidance on biometric data in schools 2008 is no longer up to date and this guidance will be removed from the ICO website by September 2013. References to this guidance will be removed from the final guidance.

Children and young people’s consultation

Each of the consultation workshop sessions contained a digital presentation of the children and young people’s friendly version of the guidance. Following this the respondents answered a series of questions. After the presentation 95% of the respondents understood that schools and colleges must have permission to use their data and 99% understood that they have the right to ‘say no’ to giving their data, 92% understood that their information must be destroyed if they left the school or no longer gave consent, 79% understood that schools have to find another way to identify learners if they do not give consent to use their biometric information. Only 54% understood that the school had responsibilities for how they had to store this information¹.

Of the respondents to the child and young people friendly consultation 61% of learners said that they thought that using biometric systems was a good idea, 16% said that they thought it was a bad idea and 22% said that they did not know if it was a good idea or a bad idea.

¹ All percentages are of those who responded to the question, those who failed to provide an answer were discounted.

The majority of responses to the children and young people's consultation were regarding the use of biometric information in schools generally rather than comments on the guidance. However, from the responses to the questions the majority of respondents understood their rights from the children and young people's guidance presentation they received.

Full list of respondents

Deeside College

Governors Wales

National Union of Teachers Cymru

Association of School and College Leaders

Association of School and College Leaders Cymru

Biostore Ltd

Monmouthshire County Council

Information Commissioners Office

Association of Lecturers and Teachers

264 learners from Mid and North Wales