



Department
for Education

Protection of Biometric Information of Children in Schools

**Advice for proprietors, governing
bodies, head teachers, principals and
school staff**

December 2012

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About this advice

This is non-statutory advice from the Department for Education. It explains the legal duties schools and sixth-form colleges have if they wish to use biometric information about pupils for the purposes of using *automated biometric recognition systems*.

The duties on schools in the Protection of Freedoms Act 2012 set out in this advice come into effect from 1 September 2013.

Schools and colleges using automated biometric recognition systems or planning to install them are advised to plan, in advance, to make arrangements to notify parents and obtain the consent required under the new duties as set out in the body of this advice. This will be particularly relevant for schools where pupils are already enrolled and using automated biometric recognition systems. There will be no circumstances in which a school or college can lawfully process, or continue to process, a pupil's biometric data without having notified each parent of a child and received the necessary consent after the new duties come into effect.

This advice replaces "*Becta guidance on biometric technologies in schools*".

Sixth form colleges and 16-19 Academies are covered by this advice. Separate advice will be issued by the Department for Business, Innovation and Skills to cover FE institutions with students under 18 years of age.

Expiry/review date

This advice will be kept under review and updated as necessary.

What legislation does this advice relate to?

The Protection of Freedoms Act 2012
The Data Protection Act 1998

Who is this advice for?

This advice is aimed at proprietors, governing bodies, head teachers and principals of **all** schools¹, sixth form colleges and 16-19 Academies. It will also be of use to school and college staff, parents and pupils.

¹This includes Academies, Free Schools, other types of independent schools, maintained schools and non-maintained special schools.

Key points

- Schools and colleges that use pupils' **biometric data** (see 1 below) must treat the data collected with appropriate care and must comply with the data protection principles as set out in the Data Protection Act 1998.
- Where the data are to be used as part of an **automated biometric recognition system** (see 2 below), schools and colleges must also comply with the additional requirements in sections 26 to 28 of the Protection of Freedoms Act 2012 (see **Protection of Freedoms Act 2012** below).
- Schools and colleges must ensure that each parent of a child is notified of the school's intention to use the child's **biometric data** (see 1 below) as part of an automated biometric recognition system.
- The written consent of at least one parent must be obtained before the data are taken from the child and used (i.e. '**processed**' – see 3 below). This applies to all pupils in schools and colleges **under the age of 18**. In no circumstances can a child's biometric data be processed without written consent.
- Schools and colleges must not process the biometric data of a pupil (under 18 years of age) where:
 - a) the child (whether verbally or non-verbally) objects or refuses to participate in the processing of their biometric data;
 - b) no parent has consented in writing to the processing; or
 - c) a parent has objected in writing to such processing, even if another parent has given written consent.
- Schools and colleges must provide reasonable alternative means of accessing services for those pupils who will not be using an automated biometric recognition system.

1 What is biometric data?

- 1) *Biometric data* means personal information about an individual's physical or behavioural characteristics that can be used to identify that person; this can include their fingerprints, facial shape, retina and iris patterns, and hand measurements.
- 2) The Information Commissioner considers all biometric information to be personal data as defined by the Data Protection Act 1998; this means that it must be obtained, used and stored in accordance with that Act (see the **Data Protection Act 1998** below).

- 3) The Protection of Freedoms Act includes provisions which relate to the use of biometric data in schools and colleges when used as part of an automated biometric recognition system. These provisions are in addition to the requirements of the Data Protection Act 1998. (See the **Protection of Freedoms Act 2012** below).

2 What is an automated biometric recognition system?

- 1) An *automated biometric recognition system* uses technology which measures an individual's physical or behavioural characteristics² by using equipment that operates 'automatically' (i.e. electronically). Information from the individual is automatically compared with biometric information stored in the system to see if there is a match in order to recognise or identify the individual.
- 2) Biometric recognition systems can use many kinds of physical or behavioural characteristics such as those listed in 1, 1) above.

3 What does processing data mean?

'*Processing*' of biometric information includes obtaining, recording or holding the data or carrying out any operation or set of operations on the data including (but not limited to) disclosing it, deleting it, organising it or altering it.³ An automated biometric recognition system processes data when:

- 1)
 - a. recording pupils' biometric data, for example, taking measurements from a fingerprint via a fingerprint scanner;
 - b. storing pupils' biometric information on a database system; or
 - c. using that data as part of an electronic process, for example, by comparing it with biometric information stored on a database in order to identify or recognise pupils.
- 2) More information on these topics is available via the **Associated Resources** section below.

² Biometric systems usually store measurements taken from a person's physical/behavioural characteristics and not images of the characteristics themselves. For example, a fingerprint image is not stored on the system but measurements from the fingerprint are converted into a template and the template is stored. The templates are also biometric data.

³ See section 1(1) of the Data Protection Act 1998.

THE PROTECTION OF FREEDOMS ACT 2012

4 Notification and Parental Consent

What the law says:

- 1) Schools and colleges **must** notify **each** parent⁴ of a pupil under the age of 18 if they wish to take and subsequently use the child's biometric data as part of an automated biometric recognition system.
- 2) As long as the child or a parent does not object, the written consent of only one parent will be required for a school or college to process the child's biometric information. A child does not have to object in writing but a parent's objection must be written.
- 3) Schools and colleges will not need to notify a particular parent or seek his or her consent if the school or college is satisfied that:
 - a. the parent cannot be found, for example, his or her whereabouts or identity is not known;
 - b. the parent lacks the mental capacity⁵ to object or to consent;
 - c. the welfare of the child requires that a particular parent is not contacted, for example where a child has been separated from an abusive parent who is not to be informed of the child's whereabouts; or
 - d. where it is otherwise not reasonably practicable for a particular parent to be notified or for his or her consent to be obtained.
- 4) Where neither of the parents of a child can be notified for one of the reasons set out above (which would mean consent cannot be obtained from either of them), section 27 of the Protection of Freedoms Act 2012 sets out who should, in such circumstances, be notified and who can give consent:
 - (a) if the child is being 'looked after' by a local authority⁶ or is accommodated or maintained by a voluntary organisation (i.e. a not-for-profit organisation), the local authority, or as the case may be, the voluntary organisation must be notified and their consent written consent obtained.
 - (b) if paragraph (a) above does not apply, then notification must be sent to

⁴The parents of a child include not only the biological mother or father (or the adoptive parents) but any other individual with parental responsibility for the child. Part 1 of the Children Act 1989 sets out who has parental responsibility and what this means.

⁵ Within the meaning of the Mental Capacity Act 2005

⁶ For example, the child is subject to a care order in favour of the local authority or the local authority provides accommodation for the child – see section 22 of the Children Act 1989 for the definition of 'looked after' child.

all those caring for the child and written consent must be gained from at least one carer before the child's biometric data can be processed (subject to the child and none of the carers objecting in writing).

- 5) There will never be any circumstances in which a school or college can lawfully process a child's biometric information (for the purposes of using an automated biometric recognition system) without one of the persons above having given written consent.
- 6) Under the Education (Pupil Registration) Regulations 2006, schools are required to keep an admissions register that includes the name and address of every person known to the school to be a parent of the child, including non-resident parents. Schools that wish to notify and seek consent to process a child's biometric information at any point after the enrolment of a child should have contact details for most parents in the admission register.
- 7) Schools should be alert to the fact that the admission register may, for some reason, not include the details of both parents. Where the name of only one parent is included in the admission register, schools should consider whether any reasonable steps can or should be taken to ascertain the details of the other parent. For example, the school might ask the parent who is included in the admission register or, where the school is aware of local authority or other agency involvement with the child and its family, may make enquiries with the local authority or other agency. Schools and colleges are not expected to engage the services of 'people tracer' or detective agencies but are expected to take reasonable steps to locate a parent before they are able to rely on the exemption in section 27(1)(a) of the Protection of Freedoms Act (i.e. notification of a parent not required if the parent cannot be found).
- 8) An option would be for schools and colleges to notify parents that they intend to take and use their child's biometric information as part of an automated biometric recognition system and seek written consent to do so at the same time as obtaining details of parents as part of the enrolment process. In other words, details of both parents would be requested by the school or college for both purposes (enrolment and notification of intention to process biometric information).
- 9) Notification sent to parents should include information about the processing of their child's biometric information that is sufficient to ensure that parents are fully informed about what is being proposed. This should include: details about the type of biometric information to be taken; how it will be used; the parents' and the pupil's right to refuse or withdraw their consent; and the school's duty to provide reasonable alternative arrangements for those pupils whose information cannot be processed. A

suggested sample 'Notification and Consent' template is included at the end of this advice.

5 The pupil's right to refuse

What the law says:

- 1) If a pupil under 18 objects or refuses to participate (or to continue to participate) in activities that involve the processing of their biometric data, the school or college **must** ensure that the pupil's biometric data **are not** taken/used as part of a biometric recognition system. A pupil's objection or refusal overrides any parental consent to the processing.

Also note:

- 2) Schools and colleges should take steps to ensure that pupils understand that they can object or refuse to allow their biometric data to be taken/used and that, if they do this, the school or college will have to provide them with an alternative method of accessing relevant services. The steps taken by schools and colleges to inform pupils should take account of their age and level of understanding. Parents should also be told of their child's right to object or refuse and be encouraged to discuss this with their child.
- 3) In addition to the required actions for notification and obtaining consent, schools may wish to include information in their privacy notices and explain how biometric data are to be processed and stored by the school. Further advice and suggested templates for privacy notices for schools can be found on the Department for Education website <http://www.education.gov.uk/researchandstatistics/datatdatam/a0064374/suggested-text-and-guidance-for-issuing-privacy-notices>

6 Providing alternatives

What the law says:

- 1) Reasonable alternative arrangements must be provided for pupils who do not use automated biometric recognition systems either because their parents have refused consent (or a parent has objected in writing) or due to the pupil's own refusal to participate in the collection of their biometric data.
- 2) The alternative arrangements should ensure that pupils do not suffer any disadvantage or difficulty in accessing services/premises etc. as a result of their not participating in an automated biometric recognition system. Likewise, such arrangements should not place any additional burden on parents whose children are not participating in such a system.

THE DATA PROTECTION ACT 1998

- 1) As *data controllers*, schools and colleges must process pupils' *personal data* (which includes biometric data), in accordance with the Data Protection Act 1998 (DPA). The provisions in the Protection of Freedoms Act 2012 are in addition to the requirements under the DPA with which schools and colleges must continue to comply.
- 2) The DPA has eight data protection principles with which all data controllers must comply.
- 3) When processing a pupil's personal data, including biometric data for the purposes of an automated biometric recognition system, schools and colleges must comply with these principles. This means, for example, that they are required to;
 - a. Store biometric data *securely* to prevent any unauthorised or unlawful use.
 - b. Not keep biometric data *for longer than it is needed* meaning that a school or college must destroy a child's biometric data if, for whatever reason, the child no longer uses the system including when he or she leaves the school or college or where a parent withdraws consent or the child objects.
 - c. Ensure that biometric data are *used only for the purposes for which they are obtained* and that such data are not *unlawfully* disclosed to third parties.

For further more information about the data protection principles and practical advice, see the **Associated Resources** section below.

Frequently Asked Questions

What information should schools provide to parents/pupils to help them decide whether to object or for parents to give their consent?

Any objection or consent by a parent must be an informed decision – as should any objection on the part of a child. Schools and colleges should take steps to ensure parents receive full information about the processing of their child's biometric data including a description of the kind of system they plan to use, the nature of the data they process, the purpose of the processing and how the data will be obtained and used. Children should be provided with information in a manner that is appropriate to their age and understanding.

What if one parent disagrees with the other?

Schools and colleges will be required to notify each parent of a child whose biometric information they wish to collect/use. If one parent objects in writing, then the school or college will not be permitted to take or use that child's biometric data.

How will the child's right to object work in practice – must they do so in writing?

A child is not required to object in writing. An older child may be more able to say that they object to the processing of their biometric data. A younger child may show reluctance to take part in the physical process of giving the data in other ways. In either case the school or college will not be permitted to collect or process the data.

Are schools required to ask/tell parents before introducing an automated biometric recognition system?

Schools are not required by law to consult parents before installing an automated biometric recognition system. However, they are required to notify parents and secure consent from at least one parent before biometric data is obtained or used for the purposes of such a system. It is up to schools to consider whether it is appropriate to consult parents and pupils in advance of introducing such a system.

Do schools need to renew consent every year?

No. The original written consent is valid until such time as it is withdrawn. However, it can be overridden, at any time if another parent or the child objects to the processing (subject to the parent's objection being in writing). When the pupil leaves the school, their biometric data should be securely removed from the school's biometric recognition system.

Do schools need to notify and obtain consent when the school introduces an additional, different type of automated biometric recognition system?

Yes, consent must be informed consent. If, for example, a school has obtained consent for a fingerprint/fingertip system for catering services and then later

introduces a system for accessing library services using iris or retina scanning, then schools will have to meet the notification and consent requirements for the new system.

Can consent be withdrawn by a parent?

Parents will be able to withdraw their consent, in writing, at any time. In addition, either parent will be able to object to the processing at any time but they must do so in writing.

When and how can a child object?

A child can object to the processing of their biometric data or refuse to take part at any stage – i.e. before the processing takes place or at any point after his or her biometric data has been obtained and is being used as part of a biometric recognition system. If a pupil objects, the school or college must not start to process his or her biometric data or, if they are already doing this, must stop. The child does not have to object in writing.

Will consent given on entry to primary or secondary school be valid until the child leaves that school?

Yes. Consent will be valid until the child leaves the school – subject to any subsequent objection to the processing of the biometric data by the child or a written objection from a parent. If any such objection is made, the biometric data should not be processed and the school or college must, in accordance with the Data Protection Act, remove it from the school's system by secure deletion.

Can the school notify parents and accept consent via email?

Yes – as long as the school is satisfied that the email contact details are accurate and the consent received is genuine.

Will parents be asked for retrospective consent?

No. Any processing that has taken place prior to the provisions in the Protection of Freedoms Act coming into force will not be affected. From 1 September 2013 (when the new duties in the Act take effect), any school or college wishing to continue to process biometric data from that date must have already sent the necessary notifications to each parent of a child and obtained the written consent from at least one of them before continuing to use their child's biometric data.

Does the legislation cover other technologies such a palm and iris scanning?

Yes. The legislation covers *all* systems that record or use physical or behavioural characteristics for the purpose of identification. This includes systems which use palm, iris or face recognition, as well as fingerprints.

Is parental notification and consent required under the Protection of Freedoms Act 2012 for the use of photographs and CCTV in schools?

No – not unless the use of photographs and CCTV is for the purposes of an automated biometric recognition system. However, schools and colleges must continue to comply with the requirements in the Data Protection Act 1998 (DPA) when using CCTV for general security purposes or when using photographs of pupils as part of a manual ID system or an automated system that uses barcodes to provide services to pupils. Depending on the activity concerned, consent may be required under the DPA before personal data is processed. The Government believes that the DPA requirements are sufficient to regulate the use of CCTV and photographs for purposes other than automated biometric recognition systems.

Photo ID card systems where a pupil's photo is scanned automatically to provide him or her with services would come within the obligations on schools and colleges under sections 26 to 28 of the Protection of Freedoms Act 2012 as such systems fall within the definition in that Act of automated biometric recognition systems.

Is parental notification or consent required if a pupil uses or accesses standard commercial sites or software which use face recognition technology?

The provisions in the Protection of Freedoms Act 2012 only cover processing by or on behalf of a school or college. If a school or college wishes to use such software for school work or any school business, then the requirement to notify parents and to obtain written consent will apply. However, if a pupil is using this software for their own personal purposes then the provisions do not apply, even if the software is accessed using school or college equipment.

Associated Resources

DfE guidelines for schools on communicating with parents and obtaining consent:

<http://www.education.gov.uk/schools/pupilsupport/parents/a0014568/parental-responsibility>

ICO guide to data protection:

http://www.ico.gov.uk/for_organisations/data_protection/the_guide.aspx

ICO guidance on data protection for education establishments:

http://www.ico.gov.uk/for_organisations/sector_guides/education.aspx

British Standards Institute guide to biometrics:

<http://shop.bsigroup.com/en/Browse-by-Subject/Biometrics/?t=r>

Template Notification and Consent Form

The following is suggested text for a notification letter and consent form for schools to use to notify parents of their plans to collect and use biometric data. Schools may wish to adapt this text in light of their own particular systems (for example, the text may be adapted to notify parents of current pupils already using systems) but should ensure that parents are made aware of the school's requirements as set out in sections 26-28 of the Protection of Freedoms Act 2012.

NOTIFICATION OF INTENTION TO PROCESS PUPILS' BIOMETRIC INFORMATION

Dear *[name of parent/carer]*

The school *[college]* wishes to use information about your child as part of an automated (i.e. electronically-operated) recognition system. This is for the purposes of *[specify what purpose is – e.g. catering, library access?]*. The information from your child that we wish to use is referred to as 'biometric information' (see next paragraph). Under the Protection of Freedoms Act 2012 (sections 26 to 28), we are required to notify each parent of a child and obtain the written consent of at least one parent before being able to use a child's biometric information for an automated system.

Biometric information and how it will be used

Biometric information is information about a person's physical or behavioural characteristics that can be used to identify them, for example, information from their *[fingerprint/iris/palm]*. The school would like to take and use information from your child's *[insert biometric to be used]* and use this information for the purpose of providing your child with *[specify what purpose is]*.

The information will be used as part of an automated biometric recognition system. This system will take measurements of your child's *[insert biometric to be used]* and convert these measurements into a template to be stored on the system. An image of your child's *[insert biometric]* is not stored. The template (i.e. measurements taken from your child's *[insert biometric]*) is what will be used to permit your child to access services.

You should note that the law places specific requirements on schools *[colleges]* when using personal information, such as biometric information, about pupils for the purposes of an automated biometric recognition system.

For example:

(a) the school *[college]* cannot use the information for any purpose other than

those for which it was originally obtained and made known to the parent(s) (i.e. as stated above);

(b) the school *[college]* must ensure that the information is stored securely;

(c) the school *[college]* must tell you what it intends to do with the information;

(d) unless the law allows it, the school *[college]* cannot disclose personal information to another person/body – you should note that the only person/body that the school *[college]* wishes to share the information with is *[insert any third party with which the information is to be shared e.g X supplier of biometric systems]*. This is necessary in order to *[say why it needs to be disclosed to the third party]*.

Providing your consent/objecting

As stated above, in order to be able to use your child's biometric information, the written consent of at least one parent is required. However, consent given by one parent will be overridden if the other parent objects in writing to the use of their child's biometric information. Similarly, if your child objects to this, the school *[college]* cannot collect or use his/her biometric information for inclusion on the automated recognition system.

You can also object to the proposed processing of your child's biometric information at a later stage or withdraw any consent you have previously given. This means that, if you give consent but later change your mind, you can withdraw this consent. Please note that any consent, withdrawal of consent or objection from a parent must be in writing.

Even if you have consented, your child can object or refuse at any time to their biometric information being taken/used. *[His/her]* objection does not need to be in writing. We would appreciate it if you could discuss this with your child and explain to them that they can object to this if they wish.

The school *[college]* is also happy to answer any questions you or your child may have.

If you do not wish your child's biometric information to be processed by the school, or your child objects to such processing, the law says that we must provide reasonable alternative arrangements for children who are not going to use the automated system to *[insert relevant service e.g. access school library]*.

If you give consent to the processing of your child's biometric information, please sign, date and return the enclosed consent form to the school *[college]*.

Please note that when your child leaves the school, or if for some other reason he/she ceases to use the biometric system, his/her biometric data will be securely deleted.

Further information and guidance

This can be found via the following links:

Department for Education's '*Protection of Biometric Information of Children in Schools – Advice for proprietors, governing bodies, head teachers, principals and school staff*': <http://www.education.gov.uk/schools/adminandfinance/schooladmin>

ICO guide to data protection for organisations:

http://www.ico.gov.uk/for_organisations/data_protection/the_guide.aspx

ICO guidance on data protection for education establishments:

http://www.ico.gov.uk/for_organisations/sector_guides/education.aspx

CONSENT FORM FOR THE USE OF BIOMETRIC INFORMATION IN SCHOOL

Please complete this form if you consent to the school taking [and using information from your child's *[insert biometric – e.g. fingerprint]* by *[name of school/college]* as part of an automated biometric recognition system. This biometric information will be used by *[name of school/college]* for the purpose of *[describe purpose(s) for which this data will be used, e.g. administration of school library/canteen]*.

In signing this form, you are authorising the school *[college]* to use your child's biometric information for this purpose until he/she either leaves the school or ceases to use the system. If you wish to withdraw your consent at any time, this must be done so in writing and sent to the school *[college]* at the following address:

[insert address]

Once your child ceases to use the biometric recognition system, his/her biometric information will be securely deleted by the school *[college]*.

Having read guidance provided to me by *[name of school/college]*, I give consent to information from the *[insert biometric – e.g. fingerprint]* of my child:

[insert name of child]

being taken and used by *[name of school/college]* for use as part of an automated biometric recognition system for *[describe purpose(s) for which this data will be used, e.g. administration of school library/canteen]*.

I understand that I can withdraw this consent at any time in writing.

Name of Parent:

.....

Signature:

Date:

Please return this form to: *[insert suitable delivery point and name of school/college]*.



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