

# VISUAL

**VISUAL Centre for Contemporary Art  
& The George Bernard Shaw Theatre**

**Photography and Video Policy**

**Adopted by VISUAL**

**October 2024**

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# Photography and Video Policy

## 1.0 Purpose

The purpose of this policy is to provide guidance on how to ensure that the rights, interests and privacy of individuals are respected in the collection, processing and use of images taken by VISUAL Carlow.

## 2.0 Scope

This policy applies to all who work with VISUAL Carlow, as employees, board members, artists, performers, management, agents, independent contractors or subcontractors on a permanent or temporary basis.

## 3.0 Photograph/Video

The use of images plays an important role in many aspects of VISUAL Carlow's work. Images in many formats can be used to record, document, demonstrate, promote and celebrate activities and experiences that take place on site.

VISUAL Carlow regularly hosts and organises artistic, commercial, and corporate events and at these events it is standard practice to take photographs or videos of the proceedings or/and individuals. These images may be used in documentation for; the local press; VISUAL's website and social media platforms; VISUAL's online newsletter; promotional material for VISUAL.

Under GDPR and the Data Protection Act 2018 the taking and storing of photographs and the recording and/ or storing of video and audio recording is considered processing. Where an individual is identifiable in an image, the data is considered personal data.<sup>1</sup>

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<sup>1</sup> In GDPR 'processing' means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaption, or alteration, retrieval, consultation, use, disclosure, by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

Personal data is defined in the GDPR as any information relating to an individual or identifiable natural person ('data subject'): an identifiable natural person is one who can be identified, directly or indirectly, particular by reference to an identifier such as a name, an ID number, location data, an online identifier or to one or more factors specific to the physical, psychological, genetic, mental, economic, cultural or social identity of that natural person.

## 4.0 Purpose of the images

Photographs or videos shall only be used for the purposes for which they are collected. For example, if a photograph or video is taken for use on the VISUAL website only it should not be posted in local print media without further consent being obtained.

### 4.1 Image Rights Payments to Artists

Artists have the right to request a flat payment from VISUAL Carlow if their work is used for marketing or promotional purposes. This rule applies particularly if an image is repeated or utilised a number of times on various VISUAL platforms such as for website content, for event promotion, on social media or in newsletters/print media.

Where applicable external photographers/videographers should credit the artist and artwork when photographing or filming events at VISUAL

## 5.0 Consent

VISUAL must obtain the consent of **individuals** prior to the taking or publishing of images. Consent must be freely given, specific, informed and unambiguous.

Where an individual or **group of people** are the focus of an image, consent shall be sought before the image is taken. The potential subjects shall be informed where and for what reason their image may be used and given the chance to opt out of the image. By remaining in the frame of the picture or videoing, the individuals are giving consent for the image to be used.

Where an individual is **not identifiable** from a photograph or video, consent is **not** required for the image to be used.

If a child under the age of 16 is clearly recognisable in an image, consent from a parent or guardian **must be obtained in writing prior to publication.**

## 6.0 Notice and Choice

Prior to an event taking place, it shall be best practice to provide notice and choice in advance of images being taken. This can be achieved by displaying notices/signs at events or through the inclusion of a notification in printed programmes, publicity materials, invites, sign in sheets or emails giving a warning that photography or videoing may be taking place. The notice/sign shall include the purpose for which the images will be used including the opportunity to opt out of the images where desired. To ensure fairness and transparency individuals should be informed if the images will be made available to a third party, used for marketing purposes or displayed on the VISUAL website or Social Media platforms. An example of a notice/sign is set out in Appendix 1.

Notice can also be given **verbally** by making an announcement prior to the images being taken to allow attendees exercise their rights not to participate by opting out of the photograph or video. The announcement shall include the purpose for which the images will be used.<sup>2</sup>

## 7.0 Parental Consent

Children would be considered vulnerable data subjects and need particular attention when processing their personal data because they may be less aware of the risks involved. Images should **not** be taken of children under 16 years or processed unless explicit **parental consent** is obtained in a written form prior to the taking of the images. An example of a consent form to be used for this purpose is set out in **Appendix 2**.

### 7.1 School Children/Children attending VISUAL events

Sensitivity and discretion should be shown at all times when working with children. Where there are children from a school, youth group or otherwise (for example specific clubs, societies, organised groups), VISUAL must obtain **written consent** from the school/parents/lead acting on behalf of the parents in line with the school's/youth group's GDPR policies prior to images being taken or processed. It is best practice and preferable to use images that depict a group context or group activity rather than a particular child. In general,

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<sup>2</sup> **Consent** of the data subject means any freely given, specific, informed and unambiguous indication of the data subject's wishes which he or she, by a statement or by clear affirmative action, signifies agreement to the processing of personal data relating to him or her.

children should not be identified. No images should be taken which would give rise to embarrassment or distress.

Where a child is receiving an award or is being publicly acknowledged in some capacity prior parental consent should always be sought in advance of the publication of their image.

## **8.0 Photographs/Videos taken for Personal use- Household exemption**

Photographs or videos taken purely for personal use are not subject to GDPR and the Data Protection Act 2018 once the individual does not intend to post or publish the images anywhere. This type of activity falls under the so-called GDPR 'household exemption'<sup>3</sup> which provides that GDPR does not apply when a person processes personal data (for example taking a photograph of someone in the course of a purely personal or household activity with no connection to a professional, business or official activity).

For example, if a member of VISUAL staff takes a photograph at an in-house event for their own personal use, consent is not required. However, if this photograph is later supplied to a third party for use, such as to the County Council for use on their website, it becomes subject to GDPR and the Act and the photograph cannot be used without obtaining **consent** from the individuals in the image.

## **9.0 Employee Photographs**

VISUAL, from time to time, may collect employees digital photographs for the purpose of identifying them as an employee, to contribute to effective customer services (for example a 'Meet The Team' section on the VISUAL website), to add their staff details to HR Duo and to protect the health, safety, dignity, well-being of individuals at work against risks arising out of or in connection with their employment.

The legal bases for the processing of employee photographs are:

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<sup>3</sup> This Regulation does not apply to the processing of personal data by a natural person in the course of a purely personal or household activity and this with no connection to a professional or commercial activity. Personal or household activities could include correspondence and the holding of addresses, or social networking and online activity undertaken within the context of such activities.

- The processing is necessary for the performance of a contract to which the employee has entered into.
- The processing is necessary for the purposes of the legitimate interests of VISUAL, for example office management.

In addition, VISUAL may also, with employee's **consent** take photographs for the purpose of creating and publishing the monthly newsletter, content for VISUAL's website and Social Media platforms.

## **9.1 Volunteers of VISUAL**

VISUAL may request their volunteers to enter group photo calls from time to time. All volunteers of VISUAL have the right to opt in or out of photographs taken either at an event they are volunteering at or from photographs taken 'in-house' for marketing, PR or other similar purposes. Volunteers will be approached in advance and the opportunity given to them to opt-in or opt-out of photography sessions or events.

## **10.0 Publish and display images**

Where an individual is not readily identifiable from a photograph or video, it will not be necessary to obtain consent to display or publish the image. This applies to individuals whose images are incidental detail, such as crowd scenes for large gatherings or ceremonial occasions/launches, exhibition openings etc. Prior to taking the images, individuals in the foreground should be given the opportunity to move out of shot if they wish.

If an image captures only one or two individuals in a setting rather than a crowd scene, consent must be obtained from the individuals prior to publishing and displaying the image.

## **11.0 External photographer**

Where an external photographer is engaged by VISUAL to take photographs/videos as a Data Controller he/she will own the copyright of the images. This should be covered in the photographer's terms and conditions. Permission to use images owned by a photographer is by prior agreement. However, it is important that external photographers are made fully aware of the requirements of this policy in relation to Data Protection law.



While photographs or videos taken for journalistic purposes may be exempt from some parts of data protection, individuals may still have concerns about their image appearing in the local paper or press and therefore should be provided with prior notice.

Where photographs or images are supplied by a 3<sup>RD</sup> party, whether by an institution, individual or an agency, the provider of the images must be able to confirm that the identifiable individuals have ***consented*** to the distribution and subsequent use of the images. It is ultimately VISUAL's responsibility to ensure that **consent** has been obtained before further publishing.

### **11.1 Visitors to VISUAL**

Visitors to VISUAL are permitted to take photographs or film for personal, non-commercial use only.

### **11.2 Press, Non-Personal social media, Image and Filming Enquiries**

Press and non-personal social media, image and filming enquiries should be emailed to the Marketing and Communications Manager at least 3 days in advance of any photo or film shoot. If granted permission to photograph or film at VISUAL, our Front of House and Reception team will be made aware and expect you at a scheduled time.

Patrons should exercise consideration for the privacy and experience of other visitors when taking photographs.

Where applicable external photographers/videographers should credit the artist and artwork when sharing your experiences at VISUAL

### **12.0 Consent obtained retrospectively**

It may be necessary to obtain consent retrospectively if images are being used for a different purpose than originally intended, in this instance, consent should be sought for further use of the images.

If VISUAL wish to use images for which no consent was sought at the time, every reasonable effort must be made to gain consent. If it is impossible to trace the subject and gain consent, before re-using the image, VISUAL should consider if the individuals were aware that their photographs were being taken

and assess whether the subjects of the photograph could have reasonably expected it to be used by VISUAL. If use of the image could cause damage of distress to the individuals in the photograph because of the way in which the image will be used, the image should not be published or re-used.

### **12.1 Deceased Persons**

GDPR does not apply to the personal data of deceased persons. If VISUAL wishes to re-use an old image and are certain that no-one in the image is still living, this does not fall under the provisions of GDPR and the Data Protection Act. If there is a doubt whether individuals in the image may be still living it is the responsibility of staff to estimate the individuals age based on a time the image was taken and assume a lifespan of one hundred years.

### **13.0 Right to withdraw consent**

The taking and publishing of photographs and videos are based on consent and individuals must be informed that they have the right to withdraw this consent at any time. However, the withdrawal of consent does not affect the previous use of images before the consent was withdrawn. VISUAL respects the wishes of an individual who may have given consent for the collection and use of their image but subsequently wish to withdraw consent. In this case, all reasonable steps will be taken by VISUAL to securely delete these photographs and videos. VISUAL will ensure that no further use is made of the images.

### **14.0 Data Retention**

Photographs and video images shall be retained for no longer than is necessary. For example, if images are on display in a public area such as a photo board, they will be removed within 28 days. All identifiable images will be retained for a period of **twelve months** from the date the images are taken in a manner that ensures appropriate security and confidentiality of the personal data, including protection against unauthorised or unlawful access to and against accidental loss, destruction or damage, using appropriate technical and organisational measures. Where it is necessary to retain the images beyond this period, images must be removed in a safe and secure manner once the purpose of the processing has ceased (for example Corporate Plans, Strategies, Annual Financial Reports). Images may be stored for longer periods only

insofar as the images are being processed solely for archiving purposes in the public interest.

## **15.0 Security**

All images shall be stored safely and securely using appropriate technical and organisational measures. For example, images should be stored on VISUAL devices only. Duplicate and junk images should be deleted immediately and all images kept must be clearly labelled.

## **16.0 Line manager's responsibility**

Line managers are responsible for ensuring:

- The implementation of this policy
- That all employees adhere to the guidance contained in this policy
- That all employees who have access to personal images are fully aware of their responsibilities.

## **17.0 What are individual rights with respect to the processing of personal data?**

**Individuals have the following rights:**

- The right to access the personal data that VISUAL holds about them.
- The right to require VISUAL to rectify any inaccurate personal data about them without undue delay.
- The right to have VISUAL erase any personal data it holds about them in circumstances such as where it is no longer necessary for VISUAL to hold the personal data or, in some circumstances, if individuals have withdrawn their consent to the processing.
- The right to object to VISUAL processing personal data about them such as processing for profiling or direct marketing.
- The right to ask VISUAL to provide their personal data to them in a portable format or where technically feasible, for VISUAL to port that personal data to another provider provided it does not result in a disclosure of personal data relating to other people.
- The right to request a restriction of the processing of their personal data.

**NOTE:** Where the processing of personal data is based on an individual's consent, to that processing, individuals have the right to withdraw that consent at any time but any processing that VISUAL have carried out before the withdrawal of this consent remains lawful.

Individuals may exercise any of the above rights by contacting VISUAL by email at [marketing@visualcarlow.ie](mailto:marketing@visualcarlow.ie)

## **18.0 Policy Review**

VISUAL will review this policy annually. This policy is subject to change from time to time. Any changes will be posted in a revised policy and will be effective when posted.

## **19.0 Contact Details**

For further information on anything outlined in this policy document please contact VISUAL by email on [marketing@visualcarlow.ie](mailto:marketing@visualcarlow.ie)

**Full details of the collection, processing and sharing of personal data by VISUAL Carlow are outlined on VISUAL's website [www.visualcarlow.ie](http://www.visualcarlow.ie)**

## Appendix 1:

# VISUAL

## PHOTOGRAPHY + FILM POLICY

Visitors to VISUAL are permitted to take photographs or film for personal, non-commercial use only.

Press and non-personal social media, image and filming enquiries should be emailed to [marketing@visualcarlow.ie](mailto:marketing@visualcarlow.ie) at least 3 days in advance of any photo or film shoot. If granted permission to photograph or film at VISUAL, our Front of House and Reception team will be made aware and expect you at a scheduled time.

Please show consideration for the privacy and experience of other visitors when taking photographs.

Where applicable always credit the artist and artwork when sharing your experiences at VISUAL.

Thank you!

For further information on our Photography and Film Policy please contact [marketing@visualcarlow.ie](mailto:marketing@visualcarlow.ie).

## Appendix 2:

# VISUAL

## **CROWD PHOTOGRAPHY / DIGITAL RECORDING RELEASE NOTICE**

Please be aware that by entering this area, your photograph and/or digital recording will be used, without compensation, for the use in all media and you release VISUAL Carlow, Carlow County Council and the Arts Council from liability whatsoever of any nature.

Here are some of the places that your photos and/or digital recordings might be used:

- Social and Digital Media: Twitter, Facebook, YouTube, Instagram, User Generated Content, LinkedIn, Spotify, TikTok, Snapchat.
- Media: International, national, regional, and local media (TV broadcast, online, print).
- Publications: Annual reports, newspapers, magazines.
- On the VISUAL Carlow or Local Authority Websites and/or Digital Media Platforms
- Promotional videos, television, and online adverts.

This is not an exhaustive list.

If you have any questions about data protection, please contact: VISUAL Carlow on 059 917 2400

### Appendix 3:

VISUAL Arts Centre  
Old Dublin Road  
Carlow  
[marketing@visualcarlow.ie](mailto:marketing@visualcarlow.ie)

Your child will participate in \_\_\_\_\_, VISUAL Arts Centre, Carlow. This project will \_\_\_\_\_

We may document workshops with photography, audio recording and video recording that will be retained in our archives and used to document the events and as promotional material for VISUAL Arts Centre Carlow.

Please sign the consent below if you are happy for your child to be photographed or recorded.

(**Definition** – the term *child* refers to a person under 18 years)

#### **Audio recording/ video/ photography Consent Form**

I \_\_\_\_\_ (please print parent or guardian's name)

give permission for photographs or videos of my child  
\_\_\_\_\_ (please print child's name)

to be taken during \_\_\_\_\_ coordinated by/at VISUAL Arts Centre Carlow.

Signed: \_\_\_\_\_ (parent or guardian)

Relationship to child: \_\_\_\_\_

Date: \_\_\_\_\_